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	<p><b>Legal Think Tanks and Government – Capacity Building</b></p> <p><b>Country Report. Hungary</b></p> <p><b>Authors</b></p> <p><b>Ivett CSASZAR</b></p> <p><b>Eszter KISS</b></p> <p><b>Domoskos LÁZÁR</b></p> <p><b>Zoltán MAJTÉNYI</b></p> <p><b>László MIKLÓSI</b></p> <p><b>Emese PÁSZTOR</b></p> <p><b>Bernadette SOMODY</b></p>

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## Part One. Country questions

### Introduction – summary

*Summary (max. two pages, 4000 characters), to be prepared when the country report is drafted.*

- Please summarize your report and state of interaction, collaboration between legal Think Tanks and the government in your country.*
- What is most important? What is characteristic?*
- What are most important findings and recommendations from your report?*

After the political transition in 1989-90 the legal conditions for creating NGOs were introduced step by step, giving birth to an active and engaged civil society. Even if not taken into consideration to the expected extent, the activities of government-critical NGOs posed a balance to the prevailing ruling elite. Trying to look at the Hungarian think tank sector from a bird's-eye view and understand the present in light of the past, it seems that Hungary is now taking the path back into the past. Governmental attacks with legal consequences, blacklists and threatening have become the norm with the obvious aim to delegitimize NGOs in the eyes of the wider public and in the end to silence critical voices. This goes hand in hand with the attacks on the freedom of the press, the latter being an important forum for NGOs as well.

Legal think tanks are in an especially difficult position as they are the ones that by their very nature, and in the absence of a valuable political opposition, have to confront most with a government that is pulling down the system of democratic checks and balances by introducing laws and regulations in its own interest, like for example, the re-writing of the electoral system or the act on the Constitutional Court. Using and abusing its supermajority gained at the 2010 elections, between 2010 and 2014 the Parliament became a law factory producing legal rules and amendments at an extreme pace, in which consultation with civil society and experts is more often than not by-passed.

The activities of legal think tanks in the present report cover human rights, individual rights, anti-discrimination, constitutionalism, transparency, corruption and media regulation, to name a few – fields where analysts are especially critical of and perhaps confront most with the current government. Most of these think tanks attest that they practically have no interaction with the government. In such a critical situation think tanks have increasingly turned to international forums, e.g. the European Court of Human Rights, EU institutions, the Open Government Partnership, to seek legitimization for their standpoint.

Space for civil society is shrinking. Most think tanks in the present report finance their activities from international funds and projects. State funding is not available and for some NGOs not even preferable. Project-based financing, however, leads to the fact that think tanks engage in activities that are not of their primary expertise and interest. At the time of writing some NGOs, including one examined in the present study, were forced to close down due to financial reasons. All in all, in spite of the variety of activities described on the coming pages, things look rather bleak for civil society in Hungary.

## Short country information

*(max. two pages, 4000 characters)*

*- Please provide short information about your country including (please do not go into details, this is to draw a general picture of current situation, trends and challenges):*

- its name,*
- population and ethnic origin if important,*
- size,*
- basics of political system,*
- most important information regarding current political situation.*
- What are current biggest challenges, political and social trends in your country?*
- What are biggest problems, challenges in the legal field (system of justice, legal profession, legislative process and similar).*
- Are there any major recent social and political changes that influence the activities of Think Tanks? For instance trends that are being described as the rise of illiberal democracy? How this influence the work of Think Tanks?*

With the adoption of the new constitution in 2011 the official name of the country was changed to Hungary from the former “Republic of Hungary”. The country has a population of 9 937 628 (according to the last census in 2011) and it lies on a territory of 93 036 km<sup>2</sup> in the Carpathian Basin. In the 2011 census 85% of the population identified as ethnic Hungarian. The Roma constitute the most numerous minority: in the 2011 census 3% (315 583 persons) identified as Roma but sociological studies estimate this number to be significantly higher, a 2003 study had estimated the Roma population to be around 600 000.<sup>1</sup> Today their number might reach 1 million. A little more than half of the population identifies as belonging to one or another church, 39% identifying as Catholic. The separation of the state and church is guaranteed in the constitution, however, the government since 2010 has made significant attempts at imposing religious influence on the population, most importantly by introducing religious education in the public education system.

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<sup>1</sup>[http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz\\_04\\_2011.pdf](http://www.ksh.hu/docs/hun/xftp/idoszaki/nepsz2011/nepsz_04_2011.pdf)

Hungary became a member of the European Union on 1 May 2004 and has been a member of the Schengen area since December 2007. As regards its form of state Hungary is a republic and the form of Hungary's government is parliamentary, people exercising power through elected members of parliament. The most important institutions of the state are the National Assembly (legislative power), the Government (executive power) and the Courts (judicial power). Formally the three branches of power are separated but since the 2010 elections when the alliance of the right wing conservative FIDESZ party and the Christian democratic KDNP party won two-thirds majority in Parliament, the system of checks and balances has been seen as increasingly undermined and the independent institutions of state being taken over by the governing parties. Beyond the three main institutions, the following are institutions that have an important role in the functioning of the state but they are also ones that are seen as having lost independence and impartiality: the office of the President of the Republic, the Constitutional Court, the Office of the Commissioner for Fundamental Rights (ombudsperson), the State Audit Office, the Hungarian National Bank, the Hungarian Prosecution Service.

Since its coming to power in 2010, the FIDESZ-KDNP government has tailored the legal framework of the country to its own needs and interests, ignoring the principles of the rule of law. It passed and modified laws requiring two-thirds majority in haste, without adequate consultation with social actors and in 2011 it enforced a highly objectionable new constitution, called Fundamental Law, without the consent of opposition parties. The frequent amendments of the constitution, altogether six since its entry into force in 2012, undermine the principle that the Constitution shall limit political power. To neutralise the Constitutional Court it restricted its powers, replaced judges and by-passed its unfavourable decisions through constitutional amendments. The government, furthermore, took control over several state institutions (National Election Committee, Parliamentary Commissioners, the National Radio and Television Body, the Supreme Court, the National Judicial Office) by removing their heads and replacing them with ones of its own choice.

The existing disproportional and further tailored electoral legislation and a growing control over the media ensured that at the 2014 elections the governing coalition could retain its two-thirds majority in Parliament in spite of the fact that it gained only 45 % of the votes. The democratic opposition parties have remained fragmented and unwilling/unable to cooperate, which plays into the hands of the governing parties. Meanwhile, the extreme right-

wing party Jobbik has gained strength and has become the largest single opposition party.

In 2015 the government seized upon the refugee crisis to hide important internal problems in the fields of education, health care and institutionalised corruption, to name only the most important ones. Instead of receiving refugees in accordance with its international obligations, the government modified legislation on migrants and asylum seekers, erected a fence on the country's southern borders and launched a hate campaign, making an explicit connection between migration and terrorism. Criminalising migration is one example of the government's practice of dividing people, of constantly drawing a borderline between 'us' and 'them', regardless of whether the difference is ethnicity, religion, social standing, political affiliation or sexual orientation. Within Hungarian society prejudice against the most vulnerable groups, like the Roma, the homeless, or LGBT people is further intensified by the government's rigorous vision of respectable life: as the Declaration of National Cooperation, adopted in 2010, puts it, "work, home, family, health, and order are going to be the pillars of the future".

## The map of Think Tanks in the country

- *The scope of the project is broad; we can name various ways of interaction between Legal Think Tanks and Government. We are also interested in various thematic fields of Think Tanks activities. The question is – what is the best method to collect valuable comparative information from all 6 countries?*
- *We propose to start with the thematic approach. And in each field of action to point out to the experience of Think Tanks (if there is any) – activities undertaken, best practises, challenges etc. Therefore we propose to follow the same pattern for each thematic field asking authors of the country report to choose what is the most important and should be mentioned.*
- When answering the questions regarding particular thematic fields, please bear in mind the list of possible Think Tanks methods of action:*
  - analysis of the state of the law in the field, in particular through the comparison of the alternatives,
  - monitoring of the operation of the legislation, judiciary and government agencies,
  - conducting empirical surveys,
  - collection, aggregation, analysis, presentation of available statistical data,
  - analysis and comments on draft legislation, strategic documents, etc.,
  - taking part in the consultation of legislation, taking part in developing Regulatory Impact Assessment,
  - creating legislation amendments of existing regulations,
  - participation in committees, advisory boards and other structures functioning at the parliamentary level or government,
  - drafting standards and best practices,
  - more activist actions (amicus curiae brief, strategic litigation, public statements of political character).
- Please make sure you do not limit your comments to your own Think Tank but refer to wide scope of Think Tanks.*

Surveying the Hungarian think tank sector in 2009, Anna Selmeczi claimed that despite the stable democratic political system that has been operating in Hungary since the political transition in 1989-1990, “think tanks are still only slightly more than marginal actors in the processes of policymaking or agenda-

setting.”<sup>2</sup> Since the time of writing, however, the country took an unexpected turn: with the supermajority gained at the 2010 elections, the governing Fidesz-KDNP party pulled down the system of checks and balances, took control of several key state institutions and, propelled by another victory in 2014, is now boasting that the goal and priority is to build an illiberal state. In a system where the political elite has hegemonic power and has laid down the foundations of an autocratic regime, it is not surprising that the space for civil society and particularly think tanks within civil society, which by their nature provide a critical balance to governmental authority and promote democratic development, is shrinking. Think tanks that were ‘simply’ marginal actors with little impact on policymaking and agenda-setting at the end of the 2000s have become NGOs that are harassed by state institutions under the control of the government and are labelled “paid agents” that “serve foreign interest circles”.

### Definition and typology of think tanks

Think tanks can be broadly defined as independent policy research organisations. According to Roland Kovats, the various definitions of think tanks share at least two common elements: think tanks are active in public policy debate and they sustain some degree of autonomy from the state.<sup>3</sup> Researchers on the Central European think tanks sector agree that the Anglo-American think tank model is not adaptable in the Central European context which lacks the philanthropic culture of giving that sustains US think tanks, guarantees their independence and enables them to operate on a not-for-profit basis. The Anglo-American model is contrasted with the middle course definition by McGann and Weaver, arguing that autonomy shall be considered a relative rather than an absolute term. Instead of being fully independent of government, they claim that think tanks in the Central European region “have significant autonomy from government and societal interests, such as firms, interest groups, and political parties.”<sup>4</sup>

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<sup>2</sup>Anna Selmeczi, „Hungarian Think Tanks and the European Public Sphere”, 2009, p.1. <http://eurospheres.org/files/2011/04/Eurosphere-Panel-I-Selmeczi.pdf>

<sup>3</sup> Roland Kovats, “Think Tanks: A Cornerstone of Democracy”, in Roland Kováts (ed), *Think Tanks in Central Europe and Eurasia: A Selective Directory*, (Budapest: Freedom House Europe, 2006) pp. 1–13

<sup>4</sup>James G. McGann and R. Kent Weaver, “Think Tanks and Civil Societies in a Time of Change”, p.5.

In McGann's typology of think tank affiliations, think tanks range from autonomous and independent, through quasi independent (autonomous from government but controlled by a donor that provides the majority of funding), government affiliated, quasi governmental (funded by government but not part of the formal structure of government), university affiliated, political party affiliated to for-profit think tanks.<sup>5</sup> In Hungary, as elsewhere in the post-Soviet bloc, the survival of the research institutes operated by the National Academy of Science, an inheritance from the era before the regime change, adds to the variety of research institutions. (These are, however, not the subject of the present survey as they all are state funded research institutes – though the fact that they are state sponsored institutes does not mean that they have no scholarly independence.) Besides sources of funding, think tanks can also be categorised by ideological perspectives, target consumers/audience, and topical emphasis. If their primary activities are examined, there are organisations whose focus fall on research and policy debates, organisations that work as consultancy groups and organisations that provide advocacy for certain (vulnerable) groups, usually providing legal representation. Clear-cut distinctions are usually not possible: an overlap is just as usual in respect of funding as in respect of key activities.

### **Legislation regulating the operation of think tanks**

The major steps and most important legal rules on thinks tanks from the regime change up to around Hungary's accession to the EU were the following:<sup>6</sup>

- 1987 amendment of the Civil Code, creating the possibility to form foundations
- Act 2 of 1989, guaranteeing the right of association
- 1993 reform of the Civil Code, introducing three legal forms of not-for-profit organisations: public law foundations, public benefit companies, and public law associations

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<sup>5</sup>McGann, James G., "2015 Global Go To Think Tank Index Report" (2016). TTCSP Global Go To Think Tank Index Reports. Paper 10.  
[http://repository.upenn.edu/cgi/viewcontent.cgi?article=1009&context=think\\_tanks](http://repository.upenn.edu/cgi/viewcontent.cgi?article=1009&context=think_tanks)

<sup>6</sup>DánielCsanády, „Improving Civil Society in Hungary,” International Centre for Not-for-profit Law, Vol.1, No. 2 (1999) [http://www.icnl.org/research/journal/vol1iss2/art\\_4.htm](http://www.icnl.org/research/journal/vol1iss2/art_4.htm)

- 1996 ‘One Percent Law’, granting NGOs the opportunity to receive one percent of the personal income tax
- 1997 Act on Public Benefit Organisations, further strengthening civic organisations by introducing a further form of NGOs (public benefit organisations) with tax preferences equal to those of foundations. Organisations that registered for public benefit status had to meet certain formal and substantive requirements, like registration and the obligation to publish annual reports for the sake of transparent operation. The law also provided for the category “prominent public benefit organisation”: organisations that undertook state responsibilities and were contracted by the state to provide them, an exceptional case of government-civil society interaction.
- Act 47 of 2003 on Party Foundations, a controversial act, guaranteeing funding from the central budget to the parliamentary parties to form their own research institutions.

Around Hungary’s accession to the EU, the legal framework for establishing and operating NGOs was favourable and on the whole there was no major obstacle preventing the proliferation of the NGO sector.<sup>7</sup> The sector and its cooperation with the government were not free from problems of implementation, like the lack of transparency and accountability, paternalism and political dividedness, as well as an increased interest and financial support from the government but the regulatory framework was in place.<sup>8</sup>

The law regulating the operation of NGOs at present:

- the new Civil Code (Act 5 of 2013)
- Act 175 of 2011 on the Right of Association, Non-profit Status, and the Operation and Funding of Civil Society Organisations

The law in force acknowledges three categories of NGOs, out of which category (1) and (2) can be considered the two main types of organisation in the non-profit sector:

1. Association: It is a legal person, it has assets, and it has the same rights and undertakes the same obligations as a natural person. It can sue and

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<sup>7</sup>Selmeczi, p.4.

<sup>8</sup>Nilda Bullain: Mechanisms of government-NGO cooperation in Hungary. Trust for Civil Society in Central and Eastern Europe, 2004. <http://www.ceetrust.org/article/152/>

can be sued. According to section 3:63 of the Civil Code: “Associations are legal persons with registered members, created for the purposes defined in their statutes in order to achieve their common objectives on a continuous basis.”

2. Foundation: The definition of foundation runs as follows (Civil Code, section 3:378): “Foundations are legal persons set up to pursue the long-term objective defined in the charter document. The founder shall define in the charter document the funds made available to the foundation and the organizational structure of the foundation.”
3. Partnership: Natural persons can form partnerships to achieve some common goals, which are not of an economic nature. A partnership is a loose form of association: it is not a legal person, it has no assets and has restricted rights, and it cannot engage in economic activities.

The primary activities of a CSO (whether association or foundation) shall be in line with the mission of the organisation. To achieve this mission the association/foundation can carry out economic activities as well, which however, cannot be its primary and only activities. According to the text of the law (3:63 of the Civil Code), (2) „Associations may not be formed with the objective of performing economic activities.” and (3) Associations are authorized to perform economic activities only if they are directly related to the achievement of the association’s goals. The same prohibition of economic activity as primary objective is prescribed in the case of foundations in section 3:378 of the Civil Code.

Civil organisations, except for those in category (3), can ask to be acknowledged as “public benefit” organisations. A CSO can be granted “public benefit” status if 1) it carries out public benefit activities 2) it has appropriate assets as defined by the law 3) its support by society is satisfactory (as defined by the law).

A CSO that has public benefit status enjoys several advantages, however, it also has to comply with more severe rules, especially concerning administration and operation.

Beyond these classic types of NGOs, whose operation is regulated by the Civil Act of 2011, corporations can also operate for non-profit purposes. As a main rule corporations are founded for business purposes but may choose to work as non-profit entities and as such they might also apply for “public benefit” status.

## Shrinking space for NGOs

In a speech delivered in April 2014 at Balványos Summer University, a major cultural event for ethnic Hungarians in Romania where members of the government regularly address the audience, the Prime Minister declared that in order for Hungary to be competitive and successful it has to depart from Western dogmas and ideologies and has to turn into an illiberal state upon the model of Singapore, China, India, Russia and Turkey. He also pointed out that the basis of a successful society is work and a nation is not an ad hoc pile of individuals but a community whose ties have to be strengthened. Out of the several obstacles that, according to him, have to be defeated on the way to illiberalism he picked out two: the European Union and civil society. While not thinking that it would be impossible to build an illiberal state within the EU, he found that defeating civil society would be a more difficult task to accomplish. Speaking of civil organisations the Prime Minister stated that in reality they are not civil by nature but paid political activists who are, moreover, paid by foreign interest groups.<sup>9</sup>

By the time the PM delivered this speech and made it explicit that he looked upon civil society as a factor to be defeated rather than to cooperate with, the governmental attack had already been launched. In late summer 2013 civil society came under a series of unjustified accusations and attacks, and in 2014 the government launched unlawful checks and auditing controls on a number of associations and foundations. Starting with spreading rumours of leading watchdog and human rights NGOs being “kept” by the “American speculator” György Soros, who exerts political influence in this way, the government picked upon and challenged the way the EEA/Norway NGO Fund grants were being distributed in the country. It deplored the fact that the Norway grants were distributed by a consortium led by Ökotárs Foundation, which, in the government’s view, was linked to an opposition party. The government interpreted this as the sign of Norway’s intention to interfere with the internal affairs of Hungary. The ambassador of Norway pointed out that Ökotárs was chosen in an open tendering process with publicly available and transparent selection criteria and the Norwegian Minister of EEA and EU Affairs refused to suspend the program and enter into negotiations to find a new grant operator. (Hungary is not a party to the agreement that regulates the operation of the grants.) In response, the government asked the

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<sup>9</sup><http://mno.hu/tusvanyos/orban-viktor-teljes-beszede-1239645>

Government Control Office to carry out an audit against NGOs receiving support from the NGO Fund and against the consortium distributing the grants. The NGOs as well as the secretariat of the EEA/Norway donor states contested the GCO's legal authority to carry out the audit, arguing that according to the relevant rules the GCO is a state agency vested with the task to audit state money and any potential audit of the Norway grants lies with the donor states. The GCO carried out on-site audits and requested documents from NGOs with tight deadlines, and threatened the NGOs with imposing fines and suspending their tax number in the event of non-compliance. At one point even police raids took place on the premises of two of the consortium members, blatantly excessive and unnecessary measures. The GCO audit report was published in October 2014, stating generalized criticism and vague conclusions without identifying concrete irregularities. Norway rejected the evaluation of the GCO, considering the whole procedure unlawful. The harassment of NGOs led to several court procedures on freedom of information, the right to good reputation and compensation for unlawful procedures, as well as for considerable time payments under the grants scheme were suspended. During the ordeal a blacklist of NGOs came to light, making it clear which NGOs with presumed left-wing ties the government had problems with.<sup>10</sup> At the end of 2015 Norway and Hungary made a compromise: the Hungarian government agreed to stop the procedures against the NGOs, and Norway agreed to give the government the veto concerning the selection of grant manager in the 2014-2020 period.

The above mentioned actions against NGOs by the government amounting to criminalisation both in action and in language discredit and delegitimize the activities of social society and in the end is aimed at silencing critical voices. As Amnesty International puts it, the harassment and intimidation of NGOs “had a chilling effect on the right to the freedom of association and eroded the space for civil society in the country.”<sup>11</sup> And though one wave of harassment has died down, it does not mean it is over.

From time to time statements deploring NGOs and plans to curb their activities appear in the news, giving way to anxiety in the civil society sector. To name a few examples: The whole procedure described above started with an article in

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<sup>10</sup> For a detailed account of events and the blacklist see <http://www.helsinki.hu/en/timeline-of-governmental-attacks-against-ngos/>

<sup>11</sup><https://www.amnesty.ch/de/laender/europa-zentralasien/ungarn/dok/2015/hexenjagd-auf-ungarns-ngos/their-backs-to-the-wall-civil-society-under-pressure-in-hungary-1>

a government-friendly newspaper accusing certain NGOs of being connected to opposition parties and György Soros.<sup>12</sup> At the end of 2014 the Prime Minister claimed that he would support legislation that would make special registration mandatory for NGOs that get financial support from abroad in order to be clear about “who is in the background” of these groups.<sup>13</sup> In the spring of 2015 the government published its National Anti-Corruption Program for 2015-18, in which it envisaged a more strict regulation on NGOs regarding transparency.<sup>14</sup> In the upheaval caused by the government-initiated quota referendum “against the mandatory settlement” of refugees in respect of which several NGOs criticised the government for its anti-migration rhetoric and hate campaign, as well as the unlawfulness of the referendum, in May 2016 the Minister leading the PM’s Office claimed that the government has security service reports at its disposal that prove that some civil organisations are supported by Soros-money.<sup>15</sup> This statement led to considerable anxiety concerning the possibility that NGOs are subject to secret surveillance in Hungary. Most recently, in September 2016, the Fidesz Deputy Chairman SzilárdNémeth announced that he asked the Parliament’s National Security Committee and the Hungarian secret services to fully vet 22 NGOs that have “thrown themselves into the pro-migration campaign machinery operated by Soros.”<sup>16</sup>

### **Lack of funding**

Besides an increasing pressure by the government, lack of funding has become another major difficulty in running NGOs in Hungary. The most important donor organisation, the Open Society Foundations established by György Soros, will provide grants not exceeding one-third of the income of an

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<sup>12</sup><http://valasz.hu/itthon/soros-felmilliardot-adott-orban-ellenfeleinek-67174>

<sup>13</sup><http://www.bloomberg.com/news/articles/2014-12-15/hungary-premier-orban-sticks-to-maverick-path-as-u-s-ties-sour>

<sup>14</sup><http://www.kormany.hu/download/5/e8/50000/Nemzeti%20Korrupci%C3%B3ellenes%20Program.pdf>

<sup>15</sup>[http://mandiner.hu/cikk/20160525\\_lazar\\_minden\\_ellenzeki\\_szervezet\\_mogott\\_soros\\_gyorgy\\_all](http://mandiner.hu/cikk/20160525_lazar_minden_ellenzeki_szervezet_mogott_soros_gyorgy_all)

<sup>16</sup><http://pestisracok.hu/nemeth-szilard-ebreszto-az-islam-fundamentalistak-europa-lenyeget-akarjak-megsemmisiteni/>

organisation. NGOs cannot count on significant voluntary donations and there is practically no available state funding. Donors tend to fund projects and provide no operational funds, which means that the activities of NGOs to some extent are defined by the donors and as a result, independent NGOs are increasingly becoming donor-organised organisations (DONGOs).

### **NGOs that can be defined as ‘legal think tanks’ in Hungary**

Think tanks that can be categorised as legal think tank are quite few in number in Hungary. According to the definition of the project, what makes a think tank ‘legal’ is either that it focuses and conducts research primarily on legal issues, or that it uses legal instruments to achieve its goals in solving public or social affairs.

Based on this definition we identified 18 NGOs that can be said to meet the criteria of a legal think tank:

- EötvösKároly Policy Institute (EKINT)
- the Hungarian Civil Liberties Union (HCLU)
- the Hungarian Helsinki Committee (HHC)
- Transparency International Hungary (TI)
- atlatszo.hu Investigative Journalism Centre
- K-Monitor Watchdog for Public Funds
- Mérték Media Monitor
- Political Capital
- Republikon Institute
- Szalaykör (Szalay Club)
- Legal Defence Bureau for National and Ethnic Minorities (NEKI)
- Policy Solutions
- Centre for Fair Political Analysis (MéltányosságPolitikaelemzőKözpont)
- Roma Press Centre
- Centre for Independent Journalism (FüggetlenMédiaközpont)
- NézőpontIntézet

- Századvég Foundation
- Centre for Fundamental Rights (AlapjogokértKözpont)

Out of these we could successfully contact and receive information from 10 organisations: from the last 7 organisations in the list we got no substantive answer. Though it has projects that could be said to resemble the projects of think tanks, the Centre for Independent Journalism does not consider itself a think tank. Its primary activity is the training of journalists on a non-profit basis. The Roma Press Centre and the Legal Defence Bureau for National and Ethnic Minorities, together with two other Roma NGOs that are not on our list (the Chance for Children Foundation and Romaversitas), have just announced that they put up the shutters due to lack of funding. That is, when reading this report, one has to bear in mind that NEKI, which was still able to give answers, does not operate any longer. The last three organisations on the list are the background research institutions of the government. Neither of them showed any sign of cooperation in this project.

## Legislative process

*Legislative process as such, as a procedure. We are not interested here in any particular legislative process on given draft law. We are interested in procedure(s).*

*Are Think Tanks engaged in the research and debate on the shape of the legislative process, and*

*What opportunities there are for Think Tanks to take part in the legislative process as an actor?*

*- Does the government have adequately formulated policy on creating draft laws and regulations?*

*- Is there an (obligatory?) schedule/calendar for future regulation and reform?*

*- Does the government cooperate with legal Think Tanks in developing legislation and policies?*

*- Please provide general information whether in your country Think Tanks are engaging in this particular field.*

*- Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.*

*- Within this thematic field please describe types of Think Tanks activities and interaction of Think Tanks with Government.*

*- Please provide examples of particular activities of particular Think Tanks (you may refer to the Think Tank Cards and Project Cards included below).*

*- What are the best practices regarding legislative process in the context of Think Tanks worth sharing?*

*- What are main challenges?*

*- Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.*

*Can you formulate any recommendations for the future?*

*- on country level?*

*- on regional level?*

Civil participation is one of the most important factors in guaranteeing the legitimacy of any kind of legislation. Even in constitutional democracies laws

accepted by majority support can only be justified in case the legislative process is characterized by a free and fair debate. Public (and civil) participation ensures consensus on the content of the norm and facilitate the voluntary conformity of citizens. In a representative democracy, an average citizen has neither the chance nor the motivation for the profound examination of legislative proposals. People gain information on proposals with the intermediation of legal think tanks, which are in possession of the necessary professional knowledge for forming a well-established opinion. In this regard, limiting the possibilities of think tanks' participation means narrowing citizens' right to information. In addition, civil participation is also advantageous for the government, as the work of think tanks may support MPs in making good decisions.

From the spring of 2010 in Hungary, the structural transformation of the public legal system led to a few unfavourable changes in the involvement of legal think tanks in the legislation process. The new Standing Orders of the National Assembly completely changed the procedural rules of law-making, which affected the role of civil society as well. Beyond the Act on the National Assembly and the Standing Orders, Act 131 of 2010 on Public Participation in Developing Legislation is also determining. Evaluating all these changes, it is important to emphasize that the abovementioned transformation concerned not only the legislation itself, but eroded the respect for fundamental rights as well. Civil participation cannot be effective without ensuring the enforcement of the freedom of speech, press and the freedom of information.

These recent changes were monitored several times by the Rule of Law Defenders' Platform, a loose form of cooperation between the Hungarian Helsinki Committee, the Hungarian Civil Liberties Union and EötvösKároly Policy Institute. EKINT has also drafted a policy paper on "Civil participation in the legislative process" based on the mandate of a nascent cooperation of legal think tanks and other civil entities (CÖLÖP).<sup>17</sup> With reference to the Think Tank Cards, K-Monitor, Atlatszo.hu and Transparency International Hungary have a joint minimum program against corruption (ezaminimum.hu) which – besides other issues – defines problems and proposes measures regarding the transparency of legislation and the level of involvement.

### ***Main challenges***

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<sup>17</sup> For reasons outside the scope of EKINT, the policy paper has not been published.

According to EKINT the following milestones might be identified as the most important challenges:

1. Bypassing public consultation through submitting legislative proposals by individual MPs
2. The scope of exceptions from compulsory public consultations
3. Publication of legislative drafts – technical deficiencies of governmental websites and the lack of time for deliberation

These challenges are limiting the scope of public consultation on legislative drafts, narrowing the role of legal think tanks in the legislative process.

### *1. Individual Proposals*

According to the relevant regulation, the scope of public consultation covers all the legislative drafts prepared by the ministers. The latter have to make the drafts available for commenting by natural persons and non-governmental and non-municipal organisations (e.g. legal think tanks). This consultation is compulsory with some exceptions regulated by the law. As this regulation only covers drafts submitted by the ministers, to avoid the necessity of consultation there is only one thing the Government shall do: after the competent ministry finished the draft's preparation, an individual MP shall submit the proposal, while the Government remains in the background. In the 2010-14 governmental cycle this method became a proven way for neglecting the opinion of legal think tanks. This practice is a misuse of the right to initiate acts, which is provided for every MP by the Fundamental Law, however, it should not be used for the purpose of submitting legal drafts enjoying the support of the governing majority.

### *2. The scope of exceptions*

According to the relevant regulation, draft laws, government decrees and ministerial decrees prepared by the ministers shall be submitted for public consultation. As a consequence of the limited scope of the Act on Public Consultation, all the proposals drafted outside the ministry (e.g. by parliament committees, MPs, the President of the Republic and municipalities) remain hidden. Besides these exceptions there are other factors to calculate with:

- a draft or concept may not be submitted for public consultation in the event that such consultation compromises the protection of particularly important defence, national security, financial, foreign, nature conservation, environmental, or heritage protection interests of Hungary

- consultation can also be avoided if prevailing public interest warrants the rapid passage of the bill.

The vague reference to the interests mentioned above provides a loophole for the government for skipping the involvement of basically any external parties in the process of legislation.

### *3. Publication of legislative drafts*

There are two different ways of public consultation:

- general consultation: comments can be made via the link available on the governmental website
- direct consultation: comments made by persons, institutions and organisations engaged by the competent minister.

#### *General consultation*

##### *3.1. Technical deficiencies*

General consultation is mandatory in all cases of public consultation, which means that the draft itself, the summary of a preliminary impact study and other relevant documents (e.g. the legislative brief in respect of the legislative planning period) shall be published on the website. After the consultation, a typified summary on the comments shall also be published. Transparency is also required considering direct consultations: a summary shall be made of the consultation with personal attendance, containing the positions represented by the strategic partner and their rationale.

Contrary to all this, in reality the governmental websites are hardly complying with these rules.

##### *3.2. The lack of time*

According to the relevant act, the draft shall be published in a way to allow sufficient time for the substantive assessment of the draft, as well as for expounding opinions and considering the merits of the received comments. Practically the lack of an exact deadline leads to exceptionally short periods available for making the comments. In extreme situations drafts are published on the same day the consultation is terminated.

#### *Direct consultations – strategic partnership agreements with the government*

The competent minister may create strategic partnership agreements, for close cooperation with organizations, especially legal think tanks as strategic partners. These partners represent various social interests in drafting legislation, or carry out scientific activities in the particular areas of law.

The vast majority of legal think tanks have lost strategic connections in law-making to such an extent that the process can be seen as a tendency directed at excluding think tanks entirely from the legislative process. Conducting partnership agreements seems accidental, and even if a think tank is involved, there is no guarantee that the comments made will be reflected in the final draft. This has resulted in an almost complete lack of trust of think tanks regarding such relationships. The lack of official links between NGOs and the government channels the connections to the field of informal meetings, which is unfavourable from the perspective of transparency.

Besides public consultation, civil participation in the parliamentary process of legislation is also a relevant issue. Public presence in the legislative process cannot be solely dependent on the scope of the Act of Public Participation. The possibility of gaining information and making comments shall be made possible during the parliamentary debate as well regarding all the legislative proposals. In this regard 2010 can again be considered as a dividing line. The procedure has completely changed, has become more obscure and hardly comprehensible for the broad public, entirely blocking the participation of civil society. The main problem is the speed of the legislative process, especially when a proposal is submitted by an individual MP. Extreme speed makes it impossible for legal think tanks to making comments on the merits of the proposed drafts.

### ***Recommendations***

1. The scope of the Act on Public Consultation shall be amended, guaranteeing the consultation of all legislative proposals regardless of the source of the draft.
2. Exceptions shall be limited – circumventing consultation can be accepted under no circumstances.
3. The unlawful failure in consultation shall lead to constitutional consequences implying the invalidity of the relevant norm.
4. The online platforms used for civil consultation shall be improved based on

the needs of users.

5. At least 15 days shall be provided for the consultation of each draft.
6. Legal think tanks shall publish data on informal meetings to ensure sufficient transparency.
7. Legal think tanks shall make further steps in enforcing the guarantees of publicity regarding the parliamentary stage of legislation.

## System of justice, judiciary

- *Judiciary, and its qualities: independence, competence, accountability, and efficiency, management of the judiciary, IT in the judiciary.*
  - *Please provide general information whether in your country Think Tanks are engaging in this particular field.*
  - *Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.*
  - *Within this thematic field please describe types of Think Tanks activities and interaction of Think Tanks with Government.*
  - *Please provide examples of particular activities of particular Think Tanks (you may refer to the Think Tank Cards and Project Cards included below).*
  - *What are the best practices regarding legislative process in the context of Think Tanks worth sharing?*
  - *What are main challenges?*
  - *Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.*
- Can you formulate any recommendations for the future?*
- *on country level?*
  - *on regional level?*

The parliamentary elections of 2010 resulted in the two-thirds majority of the new governing coalition, which considered its supermajority to be sufficient to amend the constitution and also to adopt a new one. Taking advantage of its position, the government started to fundamentally reshape the Hungarian constitutional system, including the adoption of a new Fundamental Law, which entered into force in 2012. As a part of the comprehensive constitutional transformation, new so-called cardinal laws were passed on the judiciary and the administration of courts. In 2016 the transformation of the judicial system was on the political agenda again due to the government's plan to establish a separate administrative court.

The transformation of the Hungarian constitutional system including the new

regulation on the judiciary was closely monitored, analysed and also criticised by think tanks involved in constitutionalism, human rights protection and transparency. We have to underline the activity of the so-called Rule of Law Defenders Platform (*Jogállamvédők*). The Platform is based on the cooperation of three Hungarian leading NGOs (the Hungarian Helsinki Committee, EötvösKároly Policy Institute and the Hungarian Civil Liberties Union). Its mission is to review and comment the way the Fidesz-KDNP government, which has been in power since 2010, performs its legislative work and alters the constitutional system. The Platform submits their criticism in several joint opinions and analyses.

### ***Main challenges***

#### *1. The new model of court administration*

One of the issues think tanks focused on was the new model of court administration that was introduced by Act 161 of 2011 on the Organization and Administration of the Courts. The essence of the newly established administrative model is that the task of central judicial administration is performed by the President of the National Office for the Judiciary (NOJ – *OrszágosBíróságiHivatal*). She has deputies, and her work is supported by the Office, but the President of the NOJ bears personal responsibility for the central administration of courts. The main characteristic of this system, which is quite unique in Europe, is that almost all administrative powers are vested in one single person. The regulation provoked the criticism of the Venice Commission (the Council of Europe’s advisory body on constitutional matters)<sup>18</sup> and the European Commission.

#### *2. The early removal of the former President of the Supreme Court*

In 2011, pleading the transformation of the system of judicial administration and the separation of the office of the head of central administration and that of the chief justice, the six-year-long mandate of AndrasBaka, the former President of the Supreme Court, who was ex officio the President of the National Judicial Council (previously the central institution of court administration), was prematurely ended after two years. The measure implemented by the new Fundamental Law and its Transitional Provisions

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<sup>18</sup> Venice Commission, CDL-AD(2012)001  
[http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)001-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)001-e)

generated serious constitutional criticism at both the national and European level since it violated the guarantee of security of tenure, which is a key element of the independence of the judiciary. In 2014, the European Court of Human Rights (ECtHR) concluded that there had been a violation of the Convention.<sup>19</sup> The case was referred to the Grand Chamber that also held that Hungary violated the right of access to a court and the freedom of expression of the former President of the Hungarian Supreme Court.<sup>20</sup> The Strasbourg Court found that the early removal of the former President of the Supreme Court had been due to the criticism he had publicly expressed of government policy on judicial reform when he was the President of the Supreme Court, underlining that the fear of sanction, such as losing judicial office, could have a “chilling effect” on the exercise of freedom of expression and risked discouraging judges from making critical remarks about public institutions or policies. The ECtHR also found that the chief justice’s access to court had been impeded, not by express legislative exclusion of such access, but rather by the fact that the premature termination of his mandate had been written into the new Hungarian Constitution (the Fundamental Law of Hungary) itself and was therefore not subject to any form of judicial review.

### *3. The mandatory retirement age of judges*

The Fundamental Law of Hungary has lowered the mandatory retirement age of judges to 62 years from 70 years as of 1 January 2012. This affected the majority of judges holding higher judicial positions. In July 2012, the Constitutional Court reached a decision on the constitutionality of the related provisions of the cardinal law on the legal status of judges, which set out that judges shall be forced to retire if they have reached the applicable retirement age. The Constitutional Court found the provisions unconstitutional and abolished them with a retroactive effect from 1 January 2012.<sup>21</sup> In November 2012, the Court of Justice of the European Union ruled that the forced early retirement of judges was incompatible with EU law.<sup>22</sup>

### ***Think tanks’ activities***

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<sup>19</sup>*Baka v Hungary* App No 20261/12 (27 May 2014).

<sup>20</sup>*Baka v Hungary* App No 20261/12 (23 June 2016).

<sup>21</sup>Decision of the Constitutional Court 33/2012.(VII. 17.).

<sup>22</sup>Judgment of 6 November 2012, *European Commission v Hungary*, C-286/12, EU:C:2012:687.

During the period of reshaping the constitutional regulation on the judicial system the Rule of Law Defenders Platform paid special attention to the independence of the judiciary including the abovementioned issues. They continuously monitored the law-making process, analysed the relevant regulation and published fact sheets and analyses in Hungarian as well as in English:<sup>23</sup>

- Joint Opinion on new laws on the organization of the courts and the public prosecution (14 December, 2011)
- Fact Sheets on Some Cardinal Changes Related the Rule of Law in Hungary, Fact Sheet 3: Administration of Courts and Standing of Judges (16 February, 2012)
- Analysis of the proposed amendment of the cardinal laws on the legal status of judges and the organisation and administration of courts in Hungary in light of the opinion of the Venice Commission (27 April, 2012)
- Assessment of the Amended Hungarian Laws on the Judiciary (September 2012)
- Fact Sheet: Mandatory Retirement of Judges (26 September, 2012)
- Fact Sheet: Administration of Courts (26 September, 2012)

The general analyses and opinions about the state of the Hungarian constitutional system always dealt with the problems of the judiciary. In 2014 the members of the Rule of Law Defenders Platform together with Transparency International Hungary issued factsheets on the rule of law developments in Hungary which included the measures threatening the independence of the judiciary.<sup>24</sup> In the same year the three NGOs together with Mérték Media Monitor assessed the deficiencies of the rule of law, democracy, pluralism and respect for human rights in Hungary. The comprehensive catalogue of constitutional problems covered the state of judiciary presenting the abovementioned issues.<sup>25</sup>

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<sup>23</sup>See [www.alaptorveny.eu](http://www.alaptorveny.eu).

<sup>24</sup>[http://helsinki.hu/wp-content/uploads/Hungary\\_fact\\_sheets\\_20140921.pdf](http://helsinki.hu/wp-content/uploads/Hungary_fact_sheets_20140921.pdf)

<sup>25</sup>[http://helsinki.hu/wp-content/uploads/Disrespect\\_for\\_values-Nov2014.pdf](http://helsinki.hu/wp-content/uploads/Disrespect_for_values-Nov2014.pdf)

The three organizations constituting the Rule of Law Defenders Platform wrote a letter to Viviane Reding, European Commission Vice-President to provide her with alternative answers to her questions posed to then Hungarian Deputy Prime Minister TiborNavracsics concerning among others the reduction of the mandatory retirement age of judges, the early removal of the Supreme Court President and the reorganisation of the judiciary (29 December, 2011).

In connection with the premature termination of the mandate of the Hungarian Supreme Court's President the think tanks undertook a more activist role. The Strasbourg Court allowed the three Hungarian NGOs to intervene in the case on behalf of the applicant AndrásBaka, who sued Hungary in 2012.<sup>26</sup>

### ***Best practice***

The activity performed by the Rule of Law Defenders Platform, which worked together with other NGOs in certain cases, was of outstanding importance in the field of judiciary. In the framework of the Platform three leading NGOs having a think tank character cooperated and unified their professional knowledge, experiences, network etc. on a regular basis. These features of the cooperation had a crucial role in enabling the organizations to comprehensively and continuously analyse and assess the Hungarian constitutional situation.

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<sup>26</sup>[http://helsinki.hu/wp-content/uploads/HHC-HCLU-EKINT\\_3rd\\_party\\_intervention\\_Baka\\_v\\_Hungary.pdf](http://helsinki.hu/wp-content/uploads/HHC-HCLU-EKINT_3rd_party_intervention_Baka_v_Hungary.pdf)

## Legal Profession

- *Regulation of legal profession, access to legal profession, legal ethics and discipline, etc.*
  - *Please provide general information whether in your country Think Tanks are engaging in this particular field.*
  - *Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.*
  - *Within this thematic field please describe types of Think Tanks activities and interaction of Think Tanks with Government.*
  - *Please provide examples of particular activities of particular Think Tanks (you may refer to the Think Tank Cards and Project Cards included below).*
  - *What are the best practices regarding legislative process in the context of Think Tanks worth sharing?*
  - *What are main challenges?*
  - *Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.*
- Can you formulate any recommendations for the future?*
- *on country level?*
  - *on regional level?*

In this field the Hungarian think tanks primarily participate by organising trainings for professionals in given topics and by giving opinions and analyses on the organisational rules of the legal professions.

### **Training for judges and prosecutors**

Over the past ten years the HHC has offered several professional trainings for legal practitioners, especially for judges, in the field of discrimination. In 2008, for example, sixty judges took part in the HHC's training at the Hungarian Judicial Academy, and in 2012 HHC organized a course on hate crimes for judges.

The latest training of the HHC took place between January and March 2016, when it offered a six-session practice-oriented, interactive course for judges, prosecutors, defence counsels, and policemen on efficient criminal sanctions against hate crimes. Held at the Hungarian Judicial Academy for legal practitioners, the course was based on the training manual “Increasing the capacity of law enforcement authorities to tackle racist crime, hate crime and homophobic crime through experiential learning”.<sup>27</sup> The manual gives a comprehensive overview of the universal and regional standards of criminal justice concerning hate crimes, with a special focus on the case-law of the European Court of Human Rights. The standards of the ECtHR on appropriate and effective investigation as well as on the obligation to explore racist, religious or other bias gets due attention.

### **Training manual for prosecutors on effective criminal justice against hate crimes**

The HHC took part in the activities of the international working group that prepared an electronic training manual for judges and prosecutors on effective criminal justice against hate crimes, commissioned by the HELP program of the Council of Europe.<sup>28</sup> The manual was first used in the training of judges and prosecutors organized by the Chief Prosecutor’s Office in May – June 2016.

The working group was established in 2014 and besides continuous electronic communication it held three meetings. Each expert member of the working group, including the member of the HHC, was responsible for authoring one module of the manual and for commenting on each other’s modules.

Beyond conceptual issues related to hate crimes the manual examines the distinction between hate crimes and other crimes based on bias, the implementation of criminal law against hate crimes in the various countries, and related international and European standards with a special focus on the case-law of the European court of Human Rights. The latter topic was elaborated on by the HHC.

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<sup>27</sup>[http://www.helsinki.hu/wp-content/uploads/MHB\\_k%C3%A9pz.seg%C3%A9danyag\\_Nemzetk%C3%B6zi-standardok.pdf](http://www.helsinki.hu/wp-content/uploads/MHB_k%C3%A9pz.seg%C3%A9danyag_Nemzetk%C3%B6zi-standardok.pdf)

<sup>28</sup><http://help.ppa.coe.int/>

## Activities of Hungarian think tanks related to the appointment of judges

In 2012 EötvösKároly Policy Institute, the Hungarian Helsinki Committee and the Hungarian Civil Liberties Union analysed and criticised the amendment of Hungarian laws on the judiciary. They published an analysis of the proposed amendment of the cardinal laws on the legal status of judges and the organisation and administration of courts in Hungary in light of the opinion of the Venice Commission<sup>29</sup>, and they evaluated the amended Hungarian laws on the Judiciary, too.<sup>30</sup>

In their analyses they pointed out that the proposal for appointment, on the grounds of inviting applications for available vacant judge positions, falls under the competence of the President of the National Office for the Judiciary (NOJ). This proved to be one of the main problematic powers of the NOJ's President because she was not bound by the proposal of the council of judges that assessed applications for judicial positions and heard the applicants. The relevant act stated that the President of the NOJ might decide to deviate from the shortlist of candidates and appoint the second or the third candidate on the list. Since there were no conditions whatsoever referred to under which the President of the NOJ was allowed to deviate from the order of the shortlist, this seemed to be a full discretionary power of the President of the NOJ which was criticized also by the Venice Commission.<sup>31</sup>

In 2012, the government amended the regulation giving a decisive role to the National Judicial Council (NCJ). According to the new rules, the NCJ is granted a right to veto the decision of the President of the NOJ if she intends to hire the applicant ranked second or third for the position in question. The other side of the coin is that at the same time the President of the NOJ is entitled to declare the call for applications unsuccessful (e.g. when she changes the ranking but this change is not approved by the NCJ). The

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<sup>29</sup>[http://helsinki.hu/wp-content/uploads/Hungarian Court Bill in light of the Venice Commission opinion April2012.pdf](http://helsinki.hu/wp-content/uploads/Hungarian_Court_Bill_in_light_of_the_Venice_Commission_opinion_April2012.pdf)

<sup>30</sup>[http://helsinki.hu/wp-content/uploads/HHC-HCLU-EKINT Assessment of the Amended Hungarian Laws on the Judiciary 092012.pdf](http://helsinki.hu/wp-content/uploads/HHC-HCLU-EKINT_Assessment_of_the_Amended_Hungarian_Laws_on_the_Judiciary_092012.pdf)

<sup>31</sup> Opinion of the Venice Commission, CDL-AD(2012)001  
[http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)001-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)001-e), paragraph 58.

President of the NOJ is not obliged to provide reasons for doing so. This way she can prevent the first-ranked candidate from being appointed.<sup>32</sup>

### **The annual report of the President of the NOJ**

In her annual reports the President of the NOJ regularly points out that she pays special attention to maintaining good relations with NGOs and think tanks like TI, the HHC, the HCLU and EKINT.

In her 2015 report<sup>33</sup> the President mentions that she pays due attention to comments by civil organisations concerning court management. The report identifies investigations that were ordered based on recommendations of NGOs, e.g. the HCLU or HHC. The report points out that it was based on comments by NGOs that she ordered an investigation into the starting dates of trials.

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<sup>32</sup> The new rules were criticised by the Venice Commission. See Opinion CDL-AD(2012)020-e [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)020-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)020-e), paragraph 44 and paragraphs 93.7-93.9.

<sup>33</sup>[http://birosag.hu/sites/default/files/allomanyok/obh/elnoki-beszamolok/2015\\_eves\\_elnoki\\_beszamolo.pdf](http://birosag.hu/sites/default/files/allomanyok/obh/elnoki-beszamolok/2015_eves_elnoki_beszamolo.pdf)

## Access to justice

- *Legal services, legal aid, legal empowerment*
  - *Please provide general information whether in your country Think Tanks are engaging in this particular field.*
  - *Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.*
  - *Within this thematic field please describe types of Think Tanks activities and interaction of Think Tanks with Government.*
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- Can you formulate any recommendations for the future?*
- *on country level?*
  - *on regional level?*

Among Hungarian Think Tanks and NGOs access to justice (in the field of criminal justice) belongs to the portfolio of the Hungarian Helsinki Committee that focuses on the operation of the ex officio defence counsels system. Leading Hungarian NGOs that have a think tank character provide free legal aid services for citizens which support access to justice as well.

### ***Activities in the field of the ex officio defence counsels system***

In the field of access to justice the Hungarian Helsinki Committee investigated the Hungarian ex officio defence counsels system between 2008 and 2012. Following a lengthy strategic litigation under the Freedom of Information Act in order to obtain accurate data regarding the relevant practice of police headquarters, HHC demonstrated that the practice of having “in-house” lawyers at police stations is widespread. In the framework of the project, the

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following activities were carried out: developing and testing a “corruption-free” pilot model for a new appointment system, and evaluating the performance of ex officio defence counsels on the basis of case file analysis. The final research report included (i) a summary of earlier researches concerning the efficiency of the ex officio appointment system, (ii) an analysis of the possible causes of deficiencies within the system and the legal background, (iii) analysis of the data on the practice of appointments, requested from police units in the course of the project, (iv) possible ways of solving problems emerging in relation to the appointment of defence counsels, (v) presentation of the pilot software tested in the course of the project, analysis of the data generated during the use of the software and the evaluation of the ex officio defence counsel’s performance at the pilot sites, (vi) a detailed proposal on introducing the model tested in the course of the project, including the identification of the core issues to be addressed by stakeholders when introducing the software. The project’s findings and the HHC’s recommendations aimed at reforming the system were discussed at a workshop for stakeholders.<sup>34</sup>

Between 2008 and 2009 the Hungarian Helsinki Committee took part in a comparative research project ‘Effective Defence Rights in the European Union and Access to Justice: Investigating and Promoting Best Practices’ project. The overarching goal of this project was to contribute to effective implementation of indigent defendants’ right to real and effective defence, as part of a process of advancing observance of, and respect for, the rule of law and human rights.<sup>35</sup>

In 2008, the HHC initiated a research on the possible ways to establish the quality of ex officio defence through the studying of 150 actual case files, as well as on the best practices of countries with an advanced criminal legal aid system. In the course of the project, the HHC developed an assessment questionnaire with the help of an expert group involving participants of key stakeholders, aimed at the basic assessment of the quality of ex officio legal counsels’ performance on the basis of case files. In 2009, based on the results of the pilot exercise and a desk research into best practices of countries with an advanced quality assurance system in criminal legal aid in the Framework

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<sup>34</sup><http://www.helsinki.hu/en/steps-towards-a-transparent-appointment-system-in-criminal-legal-aid-2009-2011/>

<sup>35</sup><http://www.helsinki.hu/en/effective-defense-rights-in-the-eu-and-access-to-justice-investigating-and-promoting-best-practices-2008-2009/>

of the “Effective Defence in the European Union and Access to Justice: Investigating and Promoting Best Practices’ a study was written, which was followed by a professional round-table aimed at discussing the research report and coming up with recommendations for (i) the improvement of the legal framework for effective defence; (ii) remedying the deficiencies in the legal practice hindering the proper enforcement of effective defence; and (iii) the method for assessing the quality of defence work.<sup>36</sup>

### ***Legal aid services***

In the field of civil justice the most significant legal aid service is provided by the Hungarian Civil Liberties Union human rights NGO.<sup>37</sup> The organisation provides representation in litigation as well as legal aid in cases that can be considered strategically important from the aspect of the effectiveness of human rights. HCLU provides this service only in certain types of cases, e.g. freedom of expression, freedom of assembly, freedom of conscience and religion, the right to self-determination in health issues, freedom of education.

The Hungarian Helsinki Committee, established in 1989, has been providing legal aid since 1994. They provide help for refugees, detainees and victims of coercion by authorities. Individuals might count on the HHC’s help in the following types of cases: police violence, complaint against police measure, pre-trial detention, house arrest, complaints of detainees, cases of asylum, residence permit for the purpose of family reunion, residence permit, hate-crimes against foreigners, cases of expulsion.<sup>38</sup>

The [atlatszo.hu](http://atlatszo.hu) Investigative Journalism Centre operates “KiMitTud” ([kimittud.org](http://kimittud.org)) – a Freedom of Information request platform. KiMitTud is an easy to handle online tool for citizens to obtain information from government departments, agencies, and state owned companies. As the operators for KiMitTud, the [atlatszo.hu](http://atlatszo.hu) is in close contact with almost all of the legal officers of the ministries and other governmental organisations in charge of the administration of freedom of information requests. They use this informal

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<sup>36</sup><http://www.helsinki.hu/en/the-right-to-effective-defense-and-the-reform-of-the-ex-officio-appointment-system-2007-2009/>

<sup>37</sup><http://tasz.hu/jogsegely>

<sup>38</sup><http://www.helsinki.hu/miben-segithetunk/>

network to promote a professional dialogue via workshops, trainings and other events. (For more details see the Project Card.)

## Legal education

- *Legal education for lawyers (legal studies, future lawyers training systems, continuing professional education)*
  - *Legal education for non-lawyers (civic education)*
  - *Please provide general information whether in your country Think Tanks are engaging in this particular field.*
  - *Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.*
  - *Within this thematic field please describe types of Think Tanks activities and interaction of Think Tanks with Government.*
  - *Please provide examples of particular activities of particular Think Tanks (you may refer to the Think Tank Cards and Project Cards included below).*
  - *What are the best practices regarding legislative process in the context of Think Tanks worth sharing?*
  - *What are main challenges?*
  - *Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.*
- Can you formulate any recommendations for the future?*
- *on country level?*
  - *on regional level?*

Hungarian NGOs with a think tank profile engage in legal education primarily by developing teaching materials and organizing trainings for professionals and non-professionals alike.

### **Examples**

#### *Refugee Law Reader*

The Hungarian Helsinki Committee plays the key role in this field. The Hungarian Helsinki Committee is the publisher and the coordinator of the

Refugee Law Reader since 2004.<sup>39</sup> This reader is a comprehensive on-line model curriculum for the study of the complex and rapidly evolving field of international refugee law. The Reader is aimed for the use of professors, lawyers, advocates, and students across a wide range of national jurisdictions. It provides a flexible course structure that can be easily adapted to meet a range of training and resource needs. The Reader also offers access to the complete texts of up-to-date core legal materials, instruments, and academic commentary. In its entirety, the Refugee Law Reader is designed to provide a full curriculum for a 48-hour course in International Refugee Law and contains over 1 000 documents.

*Equal Treatment Law Clinic; university course textbook; training material for the Police Academy*

Building on its training experience<sup>40</sup>, the Hungarian Helsinki Committee launched its Equal Treatment Law Clinic in December 2008 in cooperation with ELTE University, Budapest, and the University of Miskolc. The program was aimed at sensitising law students in relation to antidiscrimination issues while providing them with practical working experience in the field. At both universities 18 students were provided with a sound theoretical knowledge of the non-discrimination field and were involved into actual case work (including legal advice and representation in altogether 20 cases) under the supervision of 6 experienced attorneys. During 2009 over 50 students participated in the program, in the framework of which 18 cases were taken before the Equal Treatment Authority, civil courts, the Constitutional Court and also international forums.

To support the educational work, the HHC's experts drafted a university course textbook (titled: An outline of Hungarian anti-discrimination law)<sup>41</sup> and created an online library of relevant legal literature that is accessible on the HHC website<sup>42</sup>.

In 2012 the Hungarian Helsinki Committee together with UNHCR, Cordelia Foundation and the Police have published a training material for the Police

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<sup>39</sup><http://www.refugeelawreader.org/en/>

<sup>40</sup><http://www.helsinki.hu/antidiszkrimacios-treningek/>

<sup>41</sup>KádárAndrásKristóf – GyulaváriTamás: *A magyarantidiszkriminációs jog vázlat*, BíborKiadó, Miskolc, 2009.

<sup>42</sup><http://www.helsinki.hu/antidiszkrimacios-szakkonyvtar/>

Academy summarizing the human rights of migrants and asylum seekers under the return procedure.<sup>43</sup>

#### *Freedom of Information Law Clinic*

EKINT and HCLU, together with three other NGOs launched a program entitled Freedom of Information Law Clinic in 2008 as a joint initiative of the Justice Initiative project of Open Society Institute, the Faculty of Law of EotvosLorand University and the civil organisations. In the framework of the project the law students of EotvosLorand University could obtain theoretical knowledge in the field of the freedom of information and could also do practical work under the guidance of professionals.

In the first semester the emphasis was on the theoretical fundamentals, while in the second semester the students had the chance to witness the everyday implementation of the rules on the data of public interest at the chosen organisation. The Law Clinic offered a chance not only for students to acquire knowledge in the field of the freedom of information but also provided a platform for the professionals who took part in the program and who could thus gain information about each other's activities.

#### *University Citizens*

Eötvös Károly Policy Institute (EKINT) also takes part in this field, mainly by targeting university citizens. EKINT launched a comprehensive program to protect democratic processes at universities and the rights of university citizens. The program, entitled "University Citizens", began at the beginning of 2015. Promoting the participation of university students in public affairs, raising students' consciousness of such issues, enhancing their commitment to democratic values, supporting the exercise of their rights, protecting the autonomy of universities against the government and introducing the university ombudsman institution were among the main objectives of the project.<sup>44</sup>

In April 2016 EKINT published guidelines<sup>45</sup> that map out the basic framework of talking politics at universities and the boundaries concerning the presence

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<sup>43</sup>[http://helsinki.hu/wp-content/uploads/helsinki\\_rendorjegyzet2012FINALweb.pdf](http://helsinki.hu/wp-content/uploads/helsinki_rendorjegyzet2012FINALweb.pdf)

<sup>44</sup>Topics and articles relevant in the field of university democracy and the protection of the rights of university citizens, together with the most important results of the project were continuously published during the project on the blog entitled "University democracy", targeted specifically at university citizens: <http://egyetemidemokracia.blog.hu/>

<sup>45</sup>[http://ekint.org/lib/documents/1478270471-Iranyelvek\\_az\\_egyetemi\\_politizalasarol.pdf](http://ekint.org/lib/documents/1478270471-Iranyelvek_az_egyetemi_politizalasarol.pdf)

of politicians at the university. The guidelines have been sent to every university in the country for contemplation and possible incorporation into institutional rules. EKINT has offered its professional help for every institution that wishes to incorporate the guidelines into its regulations and take them into account.

Besides publishing the guidelines<sup>46</sup> on discussing politics at the university, in June 2016 EKINT also prepared a model regulation. Based on this model regulation the institutions of Hungarian higher education can establish their own ombudsman office that can provide efficient protection of the rights of students as well as all university actors.

EKINT has sent its model regulation to every higher education institution, stating that it is willing to help any university and college that wish to implement the ombudsman regulation. EKINT is ready to inform institutions about the background of the document, its interpretation and expected impact, as well as it is willing to provide professional support to its institutional adaptations upon request. In May 2016 EKINT held six public debates on the guidelines at EötvösLoránd University and MéreiFerenc College for Advanced Studies in Budapest, and at the Universities of Pécs, Debrecen, Miskolc and Szeged.

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<sup>46</sup>[http://ekint.org/lib/documents/1478270259-Egyetemi\\_ombudsmani\\_modellszabalyzat.pdf](http://ekint.org/lib/documents/1478270259-Egyetemi_ombudsmani_modellszabalyzat.pdf)

## Language of the law(quality, communication)

- Efforts to make law more comprehensible and accessible,
  - Advancement of new tools for communication about the law (visualisation of the law, legal info-graphics, apps etc.).
  - Please provide general information whether in your country Think Tanks are engaging in this particular field.
  - Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.
  - Within this thematic field please describe types of Think Tanks activities and interaction of Think Tanks with Government.
  - Please provide examples of particular activities of particular Think Tanks (you may refer to the Think Tank Cards and Project Cards included below).
  - What are the best practices regarding legislative process in the context of Think Tanks worth sharing?
  - What are main challenges?
  - Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.
- Can you formulate any recommendations for the future?
- on country level?
  - on regional level?

The issue whether citizens can easily understand legal rules and have smooth access to them is of utmost importance from the aspect of the social embeddedness and acceptance of law. In spite of this, however, it cannot be stated that this issue is at the forefront of the activities of Hungarian legal think tanks, which may partly result from the more serious and grave nature of problems pointed out throughout the report.

Three milestones can be, however, clearly identified:

1. Omnibus regulations
2. Declining quality of legislation

### 3. Difficult access to bills on the website of the Parliament

Omnibus regulations have, unfortunately, become a wide-spread practice in legislation: in a single act a wide variety of disconnected issues are regulated, which makes the simultaneous modification of several acts possible but at the same time renders the process of modifications highly unclear and non-transparent. To find a piece of information in an omnibus regulation the whole act has to be examined, keeping in mind that anything might be regulated in the given act. This practice makes it extremely difficult for citizens to find their way among amendments.

The practice led to the absurd case in 2014 when the President of the Republic, who is an advocate of environmental issues, signed an omnibus regulation, not knowing that the bill included the imposition of product fee on solar cells. Afterwards the President addressed the parliamentary factions in a letter, drawing subsequent attention to his concerns about the law and raising his voice against the practice of omnibus regulations at the same time. In his letter the President listed the environmental issues ombudsman among those responsible for the bill, upon which EKINT reminded the President in a somewhat ironic open letter that the institution of the environmental issues ombudsman had already been abolished by the Fidesz-KDNP government.<sup>47</sup>

The activity of legal think tanks related to omnibus regulations can be spotted in concrete cases rather than on a general level: the purpose of think tanks is to draw attention to amendments that the government wants to hide from the public. Such an amendment would have been, for example, the modification of a single letter in the act on the budget, which would have practically pre-empted the content of registered partnership maintained for same sex couples. Upon general protest the legislative committee withdrew the bill – among other the HCLU spoke up for the rights of registered partnership couples in a press statement. Beyond this issue, the entire act on the budget for 2017 is heavily criticised: 16 NGOs, among them Átlátszó.hu and K-Monitor legal think tanks, have made a comprehensive analysis concerning its transparency.<sup>48</sup>

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<sup>47</sup><http://ekint.org/az-allam-atlathatosaga-informacioszabadsag/2015-01-15/level-a-koztarsasagi-elnoknek>

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http://www.parlament.hu/documents/129373/139649/A+K%C3%B6lts%C3%A9gvet%C3%A9si+Felel%C5%91ss%C3%A9gi+Int%C3%A9zet+javaslati+Magyarorsz%C3%A1g+2017.+%C3%A9vi+k%C3%B6zponyi+k%C3%B6lts%C3%A9gvet%C3%A9s%C3%A9r%C5%91+sz%

“Legal Think Tanks and Government – Capacity Building”: project supported by the <sup>44</sup>

Concerning the decline in the quality of legislation and the non-transparent and unclear nature of the website of the Parliament, let us refer back to what has been stated concerning legal think tanks and the legislative process. Due to the new rules of Parliament the legislative process has been speeded up. This increase of pace has led to a decline in quality: there is considerably less time to draft the bills and discuss them in Parliament, thereby increasing the chance of remaining codification errors. The user unfriendly nature of the website of the Parliament impedes the process of gaining information.<sup>49</sup>All in all one can say that as long as the legal think tanks are not channelled into the legislative process, the impact of think tanks on the language of the law can only be posterior and can only relate to adopted acts.

### Recommendations

- putting the recommendations of think tanks that they have made during participation in legislation into practice would considerably improve the language of the law;
- certain methods of forums other than think tanks, aimed at simplifying the language of the law and public life in general could be put to use.<sup>50</sup>

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C3%B3l%C3%B3+t%C3%B6rv%C3%A9nyjavaslat+vonatkoz%C3%A1s%C3%A1ban/0a00d4ac-6a9d-463c-8475-8025beb51e1a

<sup>49</sup><http://www.parlament.hu/>

<sup>50</sup> Such forum is, for example, the website <http://www.torvenygyartok.hu/> which tries to explain the process of legislation to citizens with visual tools and animated videos. Another interesting initiative is <http://vilagosbeszed.hu/>, which, together with the online news portal 444.hu, has founded an award for the most incomprehensible official text, thereby making fun of the language used by authorities.

## Internationalisation of law

- Processes of integration, harmonisation of the law.
- International bodies (reporting and shadow reporting).
- *Please provide general information whether in your country Think Tanks are engaging in this particular field.*
- *Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.*
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- *Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.*

*Can you formulate any recommendations for the future?*

- *on country level?*
- *on regional level?*

NGOs with a think tank profile traditionally take part in monitoring and reporting on the implementation of human rights conventions and other international obligations. At the same time, due to the destruction of the previous national constitutional system, in recent years the think tanks have undertaken a more activist role in connection with the enforcement of international rule of law and human rights standards.

### **1. Litigation before European fora**

#### ***Background***

As it was mentioned above, the FIDESZ-KDNP government took control over the Hungarian Constitutional Court by replacing its members with new judges

nominated and elected unilaterally by the government majority. The governing coalition (Fidesz-KDNP) had two-thirds majority in the parliament between 2010 and 2015, which provided a privileged position in controlling the process of the nomination and election of Constitutional Court judges. In Hungary, the members of the Constitutional Court are elected by the two-thirds majority of the parliament, based on the nomination by an ad hoc parliament committee. The nomination procedure is of enormous importance, as the parliament may only vote upon the judges nominated by the relevant committee. According to the previous rules of appointment regulated by the 1989 Constitution of the Republic of Hungary, when nominating constitutional court judges, the governing majority had to make a compromise with the opposition: each political faction represented in the parliament had to delegate one member to the committee that was responsible for the nomination of CC judges. This rule was amended in June 2010 allowing the majority to appoint new members without the support of the opposition. Since then, the ad hoc committee responsible for the nomination of CC judges has consisted of MPs reflecting the proportions of political groups represented in the parliament, which means that the two-thirds majority has been able to decide alone. In 2011 the number of judges was increased from 11 to 15. After that, the governing majority increased the judicial terms from 9 to 12 years and eliminated the age limit (70 years). The proportion of judges nominated and elected unilaterally by Fidesz-KDNP showed a continuous increase. Until October 2010 the CC had consisted of 11 members, 10 nominated and elected through compromise and 1 nominated and elected by the unilateral decision of the governing party. By December 2016, the CC came to be filled with judges who were all nominated and elected without compromise.

Besides changing the composition of the Constitutional Court, the governing majority, without the support of any other political forces, repeatedly amended both basic laws of Hungary. The former Constitution was amended 12 times during a period of a mere 18 months, from mid-2010 till the end of 2011. The Fundamental Law, which entered into force on 1 January 2012, has already been amended six times up to December 2016. It has become an established practice that the government precludes constitutional review and annulment of laws in violation of constitutional requirements and fundamental rights by amending the Fundamental Law itself. For instance, the Constitutional Court ruled that it is unconstitutional to make a given organization's church status conditional on the approval of the Parliament. In reaction, the governing

majority amended the Fundamental Law so that it empowers the Parliament to grant or deny church status. Furthermore, the Fourth Amendment of the Fundamental Law explicitly prohibits the Constitutional Court to review the constitutionality of amendments to the Fundamental Law.<sup>51</sup>

In this situation the national Constitutional Court cannot be considered as a real check on government power: constitutional values can no longer be enforced against the decisions of the governing majority. This can be one of the main reasons why think tanks have come to put a special emphasis on bringing cases before European fora and monitoring the implementation of their decisions.

### ***Examples for bringing cases before the ECtHR and the ECJ***

- a) MátéSzabó, earlier director of EKINT and Beatrix Vissy, earlier member of EKINT have turned to the European Court of Human Rights in Strasbourg to challenge a Hungarian regulation that empowers the Counter-Terrorism Centre to spy on anyone without a court order by citing national security interests. Previously, the Hungarian Constitutional Court dismissed their constitutional complaint on the merits. It held in essence that, in the context of national security, the external control of any surveillance authorised by the Minister was exercised by Parliament's National Security Committee (which had the right to call on the Minister to account both in general terms and in concrete cases) and by the Ombudsman, and that this scheme was sufficient to guarantee respect for the applicants' constitutional right to privacy. In the case of Szabó and Vissy v. Hungary the ECtHR held that the Hungarian regulation of secret surveillance based on ministerial order violates the right to respect for private and family life enshrined in Article 8 of the European Convention on Human Rights. The decision, which was passed on 12 January 2016, was contested by the government, but the Grand Chamber rejected the government's appeal. After the decision had become final, EKINT wrote several letters to the institutions responsible for the enforcement of the rule of law in order to elicit the legal consequences of the decision, however, until the time of the writing of the report no step has been taken to modify the legal rules

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<sup>51</sup> For more see Disrespect for European Values in Hungary 2010-2014 ([http://helsinki.hu/wp-content/uploads/Disrespect\\_for\\_values-Nov2014.pdf](http://helsinki.hu/wp-content/uploads/Disrespect_for_values-Nov2014.pdf)).

that are contrary to the Convention. The regulation in force at present allows for the Minister of Justice to order the secret surveillance of any individual by the Counter-Terrorism Centre without any judicial control mechanism.<sup>52</sup>

- b) The Hungarian Civil Liberties Union won the case against Hungary before the ECtHR in which it represented nine churches that had been deprived of their church status due to the new church act. Many lawfully existing and operating churches in Hungary, including nine represented by the HCLU, applied to the European Court of Human Rights (ECtHR) for a decision on the country's 2012 Church Act, which forced all churches to go through a re-regulation process, during which the government could decide which churches would be granted church status and receive state subsidies. Many churches that were out of favour with the government failed to regain their status as churches. In their application to the Court, they claimed that the law was discriminatory and violated the right to freedom of religion. The ECtHR rendered [judgment](#) in the case *Magyar KeresztényMennonitaEgyház and Others v. Hungary* on April 8, 2014, determining that the Church Act violated the applicant churches' right to freedom of thought, conscience and religion and freedom of association protected by the European Convention on Human Rights.<sup>53</sup>
- c) The Hungarian Helsinki Committee, the EötvösKároly Policy Institute and the Hungarian Civil Liberties Union (members of the so-called Rule of Law Defenders Platform - *Jogállamvédők*) were allowed to intervene in the case on behalf of the applicant AndrásBaka, who sued Hungary before the Strasbourg Court in 2012 because of the premature termination of the Hungarian Supreme Court's President's mandate.<sup>54</sup> The background of the case is that in 2011 the six-year-long mandate of the former President of the Supreme Court was prematurely ended after two years. The measure implemented by the new Fundamental Law and

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<sup>52</sup> For more see <http://www.i-m.mx/szabomat/SzaboAndVissyVHungary/>

<sup>53</sup> <http://tasz.hu/en/freedom-religion/ecthrs-judgment-final-hungarian-church-act-violates-freedom-religion>

<sup>54</sup> [http://helsinki.hu/wp-content/uploads/HHC-HCLU-EKINT\\_3rd\\_party\\_intervention\\_Baka\\_v\\_Hungary.pdf](http://helsinki.hu/wp-content/uploads/HHC-HCLU-EKINT_3rd_party_intervention_Baka_v_Hungary.pdf)

its Transitional Provisions generated serious constitutional criticism on both the national and European level since it violated the guarantee of security of tenure, which is a key element of the independence of the judiciary. In 2014, the ECtHR concluded that there had been a violation of the Convention.<sup>55</sup> The case was referred to the Grand Chamber that also held that Hungary violated the right of access to a court and the freedom of expression of the former President of the Hungarian Supreme Court.<sup>56</sup>

- d) The Hungarian Helsinki Committee also provides representation before the ECtHR in strategic cases. The HHC provided representation before the ECtHR in the first successful Hungarian case regarding police ill-treatment. They won the *Kmetty v. Hungary* case in 2003. Since then, the ECtHR has decided in favour of their clients in nearly 30 cases. One of the HHC's most important achievements in the field was when the ECtHR in its decision passed on 10 March 2015 obliged Hungary to decrease prison overcrowding, a mass and structural problem in the country (*Varga and others v. Hungary*).
- e) In 2011 the Platform of Rule of Law Defenders turned to the President of the European Commission to initiate an infringement procedure against Hungary concerning the abolishment of the independent institution of the data protection ombudsman, which violated European Union law.<sup>57</sup> The European Commission launched the infringement procedure against Hungary. In April 2014 the Court of Justice of the European Union established that the replacement of the office of the data protection ombudsperson with the National Authority for Data Protection and Freedom of Information was unlawful. According to the decision, when the Hungarian state abolished the data protection institution on 1 January 2012 with the entry into force of the Fundamental Law, it went against European Union law. In the Court's understanding, the independence of the organ responsible for data protection involves respect for the mandate of the authority. The abolishment of the

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<sup>55</sup>*Baka v Hungary* App No 20261/12 (27 May 2014).

<sup>56</sup>*Baka v Hungary* App No 20261/12 (23 June 2016).

<sup>57</sup>[http://ekint.org/lib/documents/1470758628-barroso\\_dpa\\_independence\\_20111106\\_printed.pdf](http://ekint.org/lib/documents/1470758628-barroso_dpa_independence_20111106_printed.pdf)

institution meant the termination of the mandate of the independent ombudsperson: the institution was abolished before the expiry of the six-year mandate of the elected ombudsperson AndrásJóri.

### ***Examples for monitoring the implementation of European decisions***

The implementation of ECtHR decisions is monitored by the Committee of Ministers. In the framework of this activity the Committee monitors not only whether the just satisfaction has been paid by the state concerned but also whether it has made any effort at redressing the structural problems detailed in the reasoning of the judgement. The Committee requires action plans from the states that violated the Convention. These action plans are of a political rather than of a legal nature, therefore it is quite difficult to evaluate them and the process of implementation from a legal aspect. In spite of this, the Hungarian think tanks, especially the HHC, make every effort to review and comment on the government's action plans concerning their clients and submit reports to the Committee of Ministers on the status quo in the given issue. These reports have a significant role in indicating problems to the international organisations and because of the deterioration of the rule of law over the past 6 years they might be considered as especially important tools in checking the activities of the government and in enforcing rule of law values.

An outstanding example is the 2016 report<sup>58</sup> of the HHC that has been drawn up in connection with the ECtHR's decision on life imprisonment without parole.<sup>59</sup> The report is based on and supported by data gained in extensive professional research and includes a list of recommendations regarding the procedure of the Committee of Ministers – an example of the traditionally good and proactive relation between Hungarian think tanks and international organisations.

## **2. Shadow reporting**

Hungarian think tanks engage in shadow reporting primarily upon international initiatives and in the framework of cooperation with international organisations.

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<sup>58</sup><https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680651a11>

<sup>59</sup>*László Magyar v. Hungary*, Application no. 73593/10 (20 May 2014).

The aim of these reports is to shed light on the real situation in Hungary concerning democracy, the rule of law and the effectiveness of human rights.

### ***UN – Universal Periodic Review (UPR) 2016***

The UN Human Rights Council reviews the human rights record of each member state in the framework of the Universal Periodic Review every four years.<sup>60</sup> The first report on Hungary was made in 2011 and the second one was carried out in May 2016. In the framework of the review the member states submit country reports to which civil organisations might contribute with shadow reports.

A number of think tanks contributed to the comprehensive shadow report which reviews the effectiveness of human rights in the country.<sup>61</sup> Among others, the report examines the regulation of detention, the situation of refugees and asylum seekers, people living with disabilities, the rights of women and children, homelessness, data protection, the freedom of expression, hate speech and suffrage. It explores deficiencies in the above fields and makes recommendations to redress those.

In 2015 the Working Group Against Hate Crimes, whose members are Amnesty International Hungary, Háttér Society, the HHC, the Legal Defence Bureau for National and Ethnic Minorities, as well as the HCLU, made a shadow report<sup>62</sup> on hate crimes in Hungary and commented on the government's draft report.<sup>63</sup> In the document the Working Group explored implementation problems in the field of hate crimes and made recommendations for the Hungarian authorities.

In 2015 the HHC, which was very active in the shadow reporting process of the 2011 periodic review too, drew up an independent shadow report on law enforcement, criminal justice, the situation of migrants, refugees and asylum-seekers, drawing attention to existing problems and the recommendations of the 2011 report that have not been addressed by Hungary.<sup>64</sup>

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<sup>60</sup><http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

<sup>61</sup>[http://helsinki.hu/wp-content/uploads/civil\\_coalition\\_upr\\_2015.pdf](http://helsinki.hu/wp-content/uploads/civil_coalition_upr_2015.pdf)

<sup>62</sup>[http://www.gyuloletellen.hu/sites/default/files/gyemupr2015\\_0.pdf](http://www.gyuloletellen.hu/sites/default/files/gyemupr2015_0.pdf)

<sup>63</sup> [http://www.gyuloletellen.hu/sites/default/files/gyem\\_upr\\_tervezet\\_20151217.pdf](http://www.gyuloletellen.hu/sites/default/files/gyem_upr_tervezet_20151217.pdf)

<sup>64</sup>[http://helsinki.hu/wp-content/uploads/UPR\\_submission\\_Hungary\\_2015\\_HHC.pdf](http://helsinki.hu/wp-content/uploads/UPR_submission_Hungary_2015_HHC.pdf)

Together with the European Network on Statelessness and the Institute on Statelessness and Inclusion, the HHC also made a special shadow report on statelessness.<sup>65</sup>

### ***Country Reports – the UN International Covenant on Civil and Political Rights***

The UN Human Rights Committee regularly examines whether the member states observe the provisions of the International Covenant on Civil and Political Rights. For this purpose it uses the regular country reports of the government as well as the comments and simultaneous reports of independent experts and non-governmental organisations.

The HHC regularly submits its report on the implementation of the Covenant in Hungary to the UN Human Rights Committee. Most recently, it pointed out implementation problems in 2015 August in connection with the sixth country report, including also a list of questions to be asked from the government.<sup>66</sup> In the report the HHC drew attention to the constitutional meltdown since 2010, especially to the erosion of the power of the Constitutional Court, the stuffing of the Court with judges loyal to the government and the restructuring of the administration of courts. The document gives a detailed account of the discrimination of the Roma by the authorities, points out deficiencies in asylum procedures, emphasises the overcrowdedness of prisons and the bad conditions in detention centres, as well as deals exhaustively with the problems of pre-trial detention.

### ***Open Government Partnership***

In the framework of the Open Government Partnership Program<sup>67</sup>, K-Monitor, HCLU and TI have cooperated in preparing shadow reports to enhance open governance and the transparency of state power.

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<sup>65</sup>[http://helsinki.hu/wp-content/uploads/ISI-HHC-ENS\\_UPR\\_submission\\_Hungary\\_Sep2015.pdf](http://helsinki.hu/wp-content/uploads/ISI-HHC-ENS_UPR_submission_Hungary_Sep2015.pdf)

<sup>66</sup>[http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HUN/INT\\_CCPR\\_ICSH\\_UN\\_21527\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HUN/INT_CCPR_ICSH_UN_21527_E.pdf)

<sup>67</sup><http://www.opengovpartnership.org/>

Launched in 2011, the Open Government Partnership is an international initiative based on the voluntary participation of countries. The aim of the program is to make governments more open, accountable and responsive to citizens. The number of member states has risen from eight founding members to seventy countries at present. Hungary joined the program in 2012. The governments of the member states cooperate closely with civil society and commit themselves to the transparency of state power and easy access to information of public interest.

In the view of think tanks, some OGP members, including Hungary, has shown commitment to open governance only on paper and uses civil society that has taken part in drawing up the action plan only to pretend cooperation. This wholly discredits the country's participation in the Open Government Program. In a letter to OGP, written by K-Monitor, the HCLU and TI, civil society asked the organisation to help bring about real dialogue between the government and civil society, as well as to help put the principles of transparency and open governance into practice.<sup>68</sup>

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<sup>68</sup>[http://k-monitor.hu/files/page/ogp\\_hungary\\_response.pdf](http://k-monitor.hu/files/page/ogp_hungary_response.pdf)

## Human rights, equality, discrimination

- Please provide general information whether in your country Think Tanks are engaging in this particular field.
- Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.
- Within this thematic field please describe types of Think Tanks activities and interaction of Think Tanks with Government.
- Please provide examples of particular activities of particular Think Tanks (you may refer to the Think Tank Cards and Project Cards included below).
- What are the best practices regarding legislative process in the context of Think Tanks worth sharing?
- What are main challenges?
- Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.

Can you formulate any recommendations for the future?

- on country level?
- on regional level?

The European Union is premised on the respect for human dignity, freedom, democracy, equality, the rule of law, and human rights – including the rights of persons belonging to minorities. EU Member States share these values: they are societies committed to pluralism, the prohibition of discrimination, tolerance, justice, solidarity, and gender equality. Lately, these fundamental values have been systematically disrespected in Hungary.

A pluralistic society cannot function without a freely operating civil society that deals with issues of public policy. In Hungary, the government perceives civil entities that are critical of the government as its enemies, not as its partners.<sup>69</sup> Despite all these circumstances legal think tanks are engaged in related

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<sup>69</sup> <http://ekint.org/en/constitutionality/2014-11-21/the-situation-of-european-values-in-hungary>

issues, and conduct various activities in the field of human rights protection, although interaction with the government is limited.

### ***Key current issues in human rights protection***

With a more general approach, currently the following milestones might be identified as the most important challenges in the field of human rights' protection:

1. The situation of asylum seekers
2. The freedom of religion
3. The family definition of the Fundamental Law
4. The criminalization of homelessness

#### *1. The situation of asylum seekers*

The refugee crisis is one of the greatest humanitarian crises Europe has had to face in its history. Instead of complying with obligations set by European and international legal norms, the Hungarian government decided to erect a fence along the country's Serbian and Croatian borders, and launched a hatred campaign heading to a referendum on 2 October, 2016 upon the adoption of refugee quotas.

#### *2. The freedom of religion*

The Church Law, which entered into force in 2012, deprived numerous religious denominations – with the exception of 14 favoured churches – of their former status as churches due to the alleged misuses of state funding. Since 2012, a governmental agency can examine in the course of the re-recognition procedure of these denominations if the denomination in question conducts religious activities as defined by the Church Law. At the end of the procedure, Parliament takes a decision with a two-thirds majority on recognising the denomination as a church.

As of 2013 religious communities may also operate as an association, but they do not enjoy the same level of rights as previously (e.g. the possibility of providing religious education in public schools, training clergymen, providing clerical services in hospitals and in penitentiaries, the right to collect 1 percent income tax donations which may be offered to churches). The Constitutional Court in 2013 and the European Court of Human Rights in 2014 considered

the church status deprivation and recognition by Parliament as a rights violation, and the existence of two kinds of statuses for religious groups was considered discriminatory. Exercising one's religion freely and under equal conditions is not only everyone's fundamental right but it is also an essential element of a tolerant, pluralistic and democratic society. Hungary violates the above principle both by its Church Law and the way the Church Law is applied: the state openly differentiates between religious denominations and does not allow every religious community to acquire the same legal status under the same criteria.

### *3. The family definition of the Fundamental Law*

Democratic societies consist of citizens who have different identities but mutually tolerate each other. The state's commitment to any one of competing concepts of identity impedes pluralism. The Hungarian state is not neutral from an ideological point of view.

In order to overrule a Constitutional Court decision that abolished a law which contained a restrictive interpretation of the notion of family, the Fourth Amendment of the Fundamental Law severely narrowed down the notion of family, restricting it to marriage and parent-child relationships. Thus, the Fundamental Law itself discriminates against all other family configurations.

The Fundamental Law and the Civil Code exclude functioning and legally acknowledged relationships from the notion of family, thus, the registered partnership of same-sex couples or the cohabitation of partners of different or the same sex outside marriage is not regarded as "a family". The Fundamental Law defines marriage as the union of a man and a woman, excluding even the future consideration of legalizing same sex marriages.

### *4. The criminalization of homelessness*

The last few years show that the Hungarian state does not consider its citizens free and equal individuals. Measures that severely violate human dignity primarily afflict the most defenceless, indigent members of society.

The Fourth Amendment to the Fundamental Law gave Parliament or local governments the power to criminalize homelessness. Accordingly, a law was adopted which introduced petty offences that effectively criminalise homelessness. Sleeping on the street became punishable by community work or a fine, and, if "committed" for the third time within six months, can be

punished by confinement. At the same time, the Fundamental Law does not guarantee the right to housing.<sup>70</sup>

### ***Think tanks' activities***

The informal NGO platform called the Rule of Law Defenders, established by the Hungarian Helsinki Committee, the Hungarian Civil Liberties Union and EötvösKároly Policy Institute, constantly reviews and comments the way the Fidesz-KDNP Government alters the constitutional system, and it regularly issues joint opinions and analyses. The participating legal think tanks also publish fact sheets informing the public upon current issues, and address letters and amicus briefs to various domestic and international institutions.<sup>71</sup>

Besides the joint workflow under the Rule of Law Defenders' Platform, legal think tanks have their own methods for the enforcement of human rights in various fields.

The Hungarian Civil Liberties Union manages specific human right programs concerning issues such as disability rights, freedom of assembly and expression, freedom in education, freedom of thought, conscience and religion, patients' rights, self-determination and the equality of Roma people. The HCLU operates a legal aid service, offering a telephone hotline where people can get legal advice free of charge. The HCLU also has its' own policy paper series summing up the liberal position on a legal policy issue involving a chosen fundamental right in both Hungarian and English.

The Hungarian Helsinki Committee has broad expertise in the protection of the rights of refugees and the protection of the rights of detainees. The HHC reviews and analyses Hungarian legal rules that include provisions on refugees and migrants, e.g. the Asylum Act, the Act on State Border, and provides a summary of their implementation and practical consequences. Their statistical reports about asylum figures<sup>72</sup> are an up-to-date source of information for professionals, and they constantly monitor how Hungary is fulfilling its obligations regarding refugees (e.g. naturalisation).<sup>73</sup> The HHC

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<sup>70</sup> [http://ekint.org/lib/documents/1485425006-disrespect\\_for\\_values.pdf](http://ekint.org/lib/documents/1485425006-disrespect_for_values.pdf)

<sup>71</sup> <https://sites.google.com/site/ruleoflawinhungary/>

<sup>72</sup> <http://www.helsinki.hu/wp-content/uploads/HHC-Hungary-asylum-figures-1-July-2016.pdf>

<sup>73</sup> <http://www.helsinki.hu/wp-content/uploads/The-Black-Box-of-Nationality-HHC-2016.pdf>

offers an online reporting form for refugees who experience violence by the authorities at the Hungarian-Serbian border,<sup>74</sup> and also provides basic information for refugees about their rights.<sup>75</sup> Based on a tripartite cooperation agreement in 2006 the National Police Headquarters, the UNHCR Regional Representation in Central Europe and the HHC each year present their annual report on border monitoring activities. Each report summarizes the experience gathered on the borders and presents joint recommendations to Hungarian authorities. With the support of the UNHCR the HHC has also developed a training manual for the Police Academy summarizing the human rights of migrants and asylum seekers. Besides activities relating to asylum seekers, the HHC is really active in facilitating the rights of detainees. In this regard, the HHC also cooperates with the police, organizing civil-police consultations to bring closer the police and the community and thus to enhance trust, more effective police work and safer community.<sup>76</sup>

Among the examined legal think tanks the HCLU and the HHC can be considered organisations whose activities mostly focus on human rights issues. Besides their activities, the Think Tank Cards provide additional information on other legal think tanks which also engage with particular human right issues. Generally, all these legal think tanks are really active in awareness-raising and seize every opportunity to draw public attention to current problems.

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<sup>74</sup>[http://www.helsinki.hu/wp-content/uploads/Form\\_to\\_Report\\_Abuse.pdf](http://www.helsinki.hu/wp-content/uploads/Form_to_Report_Abuse.pdf)

<sup>75</sup>[http://www.helsinki.hu/wp-content/uploads/tajekoztato\\_angol.pdf1](http://www.helsinki.hu/wp-content/uploads/tajekoztato_angol.pdf1)

<sup>76</sup>[http://helsinki.hu/wp-content/uploads/HHC\\_SozialMarie2011\\_Project-description\\_English\\_1.pdf](http://helsinki.hu/wp-content/uploads/HHC_SozialMarie2011_Project-description_English_1.pdf)

## Information society and the legal system and administration

- Please provide general information whether in your country Think Tanks are engaging in this particular field.
  - Please formulate (if possible, two, three) most important challenges in this field (milestones) that Think Tanks are focused on, that Think Tanks are monitoring, advocating for or against, in the past (10 years) or nowadays.
  - Within this thematic field please describe types of Think Tanks activities and interaction of Think Tanks with Government.
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  - What are the best practices regarding legislative process in the context of Think Tanks worth sharing?
  - What are main challenges?
  - Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.
- Can you formulate any recommendations for the future?
- on country level?
  - on regional level?

Taking advantage of the new opportunities offered by information society, as well as coping with the challenges posed by it have become a part of everyday life, which has a significant impact on the daily work of NGOs and legal think tanks too. The role of information society in relation to legal think tanks can be examined from two aspects:

- a) What kind of interaction is there between civil society and the state concerning issues of information society in the legislative process, e.g. services, telecommunication, freedom of information?
- b) How can civil society and legal think tanks within it use new technologies in monitoring legislative processes and checking state power?

The present government in Hungary does not show signs of cooperation, which leads to considerable challenges in both areas. Defects that come to light with the help of new technologies are not addressed with measures or

legislation by the state, though efficient governance is not possible without cooperation with civil society. Drafts of legal rules and recommendations for modification made by legal think tanks are not taken into account by the government. In earlier years there were positive instances of efficient cooperation, e.g. in 2003 EötvösKároly Policy Institute drew up the conceptual basis of the law on the freedom of electronic information. There would be a need for similar cooperation in the future, however, at present the government is unwilling to cooperate with civil society.

### **Interaction between civil society and the state concerning issues of information society in the legislative process**

It is of utmost importance that information society is regulated by law. Most phenomena of information society need regulation that is quite far from the values of law: services related to information society, like the electronic signature, the innovations of telecommunications, electronic advertisements, spam, the extension of achievements of data protection to new technologies, or technologies of encryption.<sup>77</sup> These are such diverse regulatory areas, where human rights organisations have little role in initiation, they are more active in giving opinion on draft laws, in issuing amicus briefs in fundamental rights litigation, in action against state monitoring of the traffic data (and sometimes content data) of electronic communication, and in public criticism of data protection and the restriction of the freedom of information.<sup>78</sup> In this regard Hungarian human rights NGOs and legal think tanks, primarily EKINT and HCLU, and in a more issue-specific way HHC and TI often acted in an efficient way before 2010.

The case of freedom of electronic information is a bit different: while there has been significant delay in the comprehensive international regulation since the USA adopted its first version in 1976<sup>79</sup>, on the national level it is a significant achievement of freedom.

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<sup>77</sup> See for example the case in which upon an application submitted by EKINT, the ECtHR established that the practice of tapping telephone conversations, monitoring internet communication and the use of other secret service tools without judicial approval is contrary to the Convention. [http://hudoc.echr.coe.int/eng?i=001-160020#{%22itemid%22:\[%22001-160020%22\]}](http://hudoc.echr.coe.int/eng?i=001-160020#{%22itemid%22:[%22001-160020%22]}).

<sup>78</sup><http://www.fda.gov/RegulatoryInformation/Legislation/ucm161177.htm>

<sup>79</sup>[http://ekint.org/lib/documents/1479459953-efoi\\_konc.pdf](http://ekint.org/lib/documents/1479459953-efoi_konc.pdf)

In the Czech Republic the basic principles concerning the exercise of the right to information are laid down in the Charter of Fundamental Rights and Freedoms, which stipulates that the exercise of the right to information has to be guaranteed and can be restricted only by law and to an extent that is necessary in a democratic society to safeguard the rights and freedoms of individuals, national security, public order, public health and public morals.

In Poland access to information of public interest is based on the Constitution adopted in 1997, which in Article 61 stipulates that „a citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions. Such right shall also include receipt of information on the activities of self-governing economic or professional organs and other persons or organizational units relating to the field in which they perform the duties of public authorities and manage communal assets or property of the State Treasury.” The right to obtain information ensures access to documents of elections. The act on access to information of public interest contains more detailed regulation, and it extends the concept of information of public interest to all information related to public affairs.

Hungary adopted a law on the freedom of information in 1992 that was first of its kind in Central and Eastern Europe. The law currently in force, Act 112 of 2011 on the Right to Informational Self-Determination and on Freedom of Information (hereinafter: Information Act), is based on Article VI of the Fundamental Law. It regulates public authorities' restriction of access to information, including internal documents. It defines such basic concepts as „personal data”, „data of public interest” and „data public on grounds of public interest.” The act incorporates the law on the freedom of electronic information, which was a separate act earlier and whose conceptual basis was drawn up by EKINT in 2003.<sup>80</sup>

Dismantling the rule of law is a slow process. In the System of National Cooperation, introduced in 2010, several amendments have been passed that restrict the freedom of information, in some cases, for example, access to information of public interest has to be paid for. At the same time, however, the pro-freedom philosophy of the law could not be entirely neglected. The law covers the data processing of state and self-governmental organs, and a question posed electronically has to be answered electronically by the organ processing the relevant data of public interest. The law also ensures pro-active

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<sup>80</sup> The law on the freedom of electronic information based on the guidelines of EKINT was adopted on 4 July 2005 by the National Assembly.

freedom of information: some types of data have to be made accessible by state and self-governmental organs without any request.

### **The use of new technologies in monitoring legislative processes and checking state power**

In their everyday work civil organisations and legal think tanks often use the new technologies offered by information society. There are several innovative examples which make the control of state power and access to information a lot easier.

Unwillingness to cooperate characterizes the government in this field too. Problems indicated by think tanks, e.g. corruption, lack of access and obstacles to information of public interest, should be addressed by effective legislation, amendments or other steps by the government. However, as this regularly fails, the control of power by civil society is restricted to an indication of problems and raising concerns. In certain cases think tanks can turn to national or international courts, however, this means redress of concrete issues and does not have an impact on structural problems.

Below are two exemplary initiations by think tanks that are based on the new technologies of information society.

#### **a) KiMitTud ([kimittud.org](http://kimittud.org)) – a Freedom of Information request platform by [Átlátszó.hu](http://Atlatzso.hu)**

KiMitTud (“Who knows what”) is an easy to handle online tool for citizens to obtain information from government departments, agencies, and state owned companies. It is everyone’s right under the freedom of information laws of Hungary to request information from any public body, and they have to respond. Therefore, [Átlátszó.hu](http://Atlatzso.hu) localised [alaveteli.org](http://alaveteli.org)'s freedom of information request generator. It's a simple concept: citizens use the website to request information, and the replies are recorded for all to see on the website. Historic requests, along with any resulting correspondence, are archived publicly online. Since its launch in 2012, KiMitTud has enabled more than 5900 freedom of information requests and more and more citizens are discovering its power.

KiMitTud inevitably revitalised the practice of FoI requests in Hungary in a time when it was needed the most. The media, local citizens and even political parties use the platform regularly: the number of requests shows that the

platform significantly increased citizens' awareness of the freedom of information.

Most of Átlátszó.hu's best practices are based on low and middle level technical cooperation. As the operators for KiMitTud, they are in close contact with almost all of the legal officers of the ministries and other governmental organisations in charge of the administration of freedom of information requests. They use this informal network to promote a professional dialogue via workshops, trainings and other events.

### **b) Red Flags in Public Procurement**

Red Flags is a common project of K-Monitor, PetaByte and Transparency International Hungary, with the support of the European Commission. The Red Flags project aims to enhance the transparency of public procurements in Hungary and support the fight against corrupt procurements. It is an interactive tool that allows the monitoring of procurement processes and their implementation by citizens, journalists or even public officials and catch fraud risks at different stages of the procurement process. The Red Flags tool automatically checks procurement documents from the Tenders Electronic Daily (TED) and filters risky procurements through a special algorithm. Although risky does not mean corrupt, flagged procurement documents are worth checking. Users can subscribe to receive alerts if risky procurements are published (generally or in their special field of interest).

## Think Tanks– opportunities and challenges

- *We are formulating here some additional questions to be answered based on the research done by authors of the country report.*
- *We have also proposed (see below) the list of questions that might/should be used in the interviews and focus groups. In the following sections please summarise both information collected as well as your opinion and answers you received (we mark separately questions repeated from the **Questionnaire** for interviews).*

## Interdisciplinary approach to the law

- *Do Think Tanks promote interdisciplinary approach to the law and system of justice?*  
*Do Think Tanks promote collaboration of lawyers with economists, psychologists, sociologists, IT experts, HR experts etc.?*

As a main rule in the legal think tanks and their projects examined in this report the employees and contributors are not only lawyers but human rights experts, sociologists, political scientists, economists, social-psychologists, communication experts and journalists. The organisations are not pure legal think tanks. They are research institutions and human rights organisations that have an emphatic legal think tank character but due to their interdisciplinary nature they have members coming from various disciplines.

EKINT, which is a legal think tank with respect to its main profile, is interdisciplinary in the sense that among its earlier and present members there are political philosophers, sociologists, political scientists, human rights experts, social communication experts and journalists. In bigger projects the Institute reaches out for contribution to experts of other disciplines and professions, it has an informal network of experts.

### **Examples**

In February 2016 EKINT made a comprehensive analysis<sup>81</sup> on the planned (and since adopted) sixth amendment of the constitution, which introduced a special state of emergency in the event of a terrorist threat. The study examined the issue from aspects of constitutional law, security policy and social psychology.

In the University Citizens program of EKINT, finished in June 2016, the background study that formed the basis of the main activities of the project was written by a well-known sociologist who is a professor at the biggest university in the country. The guidelines for discussing politics at the university, an important achievement of the project, were accompanied by a thematic video series featuring a well-known law sociologist, a journalist and an activist, who explored the frameworks of discussing politics at the university, using an interdisciplinary approach. The videos were recorded by a company consisting of professional actors and cameramen. The recommendations of the guidelines were discussed by experts of various disciplines, local activists and university citizens in a six-part series of debates at the biggest universities in the country. In these forums masters of arts, aesthetes, philosophers, sociologists, and communication experts took part as invited speakers and discussed the framework of politics within the university from the aspect of their disciplines.

In 2015 EKINT launched a comprehensive program to make it clear for the public as well as for university communities what is acceptable and what is not in the relation of politics and education in a democratic society. In the framework of the project the Institute made recommendations for schools as well as for politicians. In drawing up the guidelines EKINT relied to a considerable extent on the expertise of the Association of Teachers of History.

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<sup>81</sup>[http://ekint.org/lib/documents/1469175368-ekint\\_terrorveszelyhelyzet\\_elemzes.pdf](http://ekint.org/lib/documents/1469175368-ekint_terrorveszelyhelyzet_elemzes.pdf)

## Think Tanks – identifying problems

### Questionnaire

- *What are the best methods for Think Tanks to identify problems and issues requiring their policy work?*
- *What type of legal Think Tank activity is lacking in your country? What are the important areas of law that are neglected by Think Tanks?*

Some of the methods of identifying problems and issues that require the attention of legal think tanks are reasonably self-evident as well as relatively easy to implement. Regular monitoring of the legislative agenda of the national parliament is something that most legal think tanks routinely do and which frequently brings up issues that call for action or analysis. The task is made somewhat harder when important legislative changes are introduced and even implemented at extremely short notice, so as not to leave sufficient time for proper analysis, or when significant legal changes are hidden in the text of substantially unrelated bills, intentionally to evade the scrutiny of analysts, opposition politicians, or of journalists. Nevertheless, this method is central to keeping track of the issues that require the attention of legal think tanks.

Another fairly obvious method is to simply follow the public reporting in the media, since it is frequently the case that legislative plans are announced publicly before they are introduced as draft bills. Media reports are useful not only in order to identify possible future changes but also to establish which areas of the law and the legal system function sub-optimally, or are subject to widespread abuse, or where law-enforcement fails to adequately carry out the law. Needless to say, relying on media reports to identify policy-relevant problems is both necessary and necessarily imperfect, since the media's current interests need not closely track those that are relevant for policy work. That said the media brings to surface issues that would not be on the radar of legal think tanks otherwise.

Another important but less reliable method of identifying issues is by following up on individual complaints or requests that are made directly to the think tanks or to their staff members. Better known think tanks regularly receive requests and inquiries regarding legal issues from members of the public, and at least some of these prove to be relevant from a policy perspective. This is an important supplement to media monitoring, since many of these issues

would never get the attention of media organizations. At the same time, this channel is rather inefficient and unreliable, since the individuals making the inquiries are often unaware of existing legal solutions to their problems, unable to explain their situation clearly, or fail to provide crucial information. All of this means that tracking down these inquiries often consumes large amounts of time and energy of staff members, without tangible results.

Another standard method of identifying relevant problems is constituted by channels of communication within the policy community, such as conferences, publications and workshops where researchers, analysts and activists exchange information and present their works. These forums serve as essential channels of identifying relevant problems.

### **Activities and areas of law neglected by think tanks**

Most NGOs that are engaging with legal issues in Hungary are active in the areas of civil rights, civil and political liberties, freedom of information, and broader constitutional matters. Most of them undertake litigation, individual or strategic. By comparison, there are fewer organizations that focus on more general institutional and legal analysis, or that approach constitutional issues from a more systematic perspective. As far as activity types are concerned, litigation is more prevalent than both policy analysis and advocacy. There are almost no known legal think tanks that focus on the workings of municipalities and local governments in general, as distinct from national institutions, even though local municipalities have a huge impact on the lives of their residents. Very few legal think tanks are engaging with statistical analysis of legal problems as distinct from the analysis of individual pieces of legislation or specific institutions.

As far as different areas of the law are concerned, the main focus tends to be on problems of discrimination, freedom of information, and other civil and political rights. Not many legal think tanks are active in other areas such as labour law, children's welfare, disability rights, or consumer protection, etc. More generally, economic areas of the law, such as antitrust law, corporate law, regulatory and banking law are vastly underrepresented among think tanks that work in legal areas. In general, international law is underrepresented as compared to national law, though this has been slowly changing since the admission to the European Union.

## TT and access to data

- *Do Think Tanks face any problems with access to data needed for their analyses?*
- *Is the public system of collecting statistical data adequate and accessible?*

Access to data in Hungary is primarily regulated by Act 112 of 2011 on the Right to Informational Self-Determination and on Freedom of Information (hereinafter: Information Act) and Act 46 of 1993 on Statistics. As it is pointed out in the section on information society, the original 1992 version of Hungarian information act was one of the most progressive and pro-freedom act in Europe covering the freedom of both traditional, paper-based information and new, electronic information. The act provided sufficient protection of personal data, restricted the range of data classifiable as state secret and guaranteed everyone, including civil organisations, considerable access to official documents.

Access to data of public interest or data public on grounds of public interest shall be denied in the case of classified data, and if the law sets restriction on grounds of national defence, national security, criminal investigation and crime prevention, natural conservation, financial or foreign exchange policy of the state, international relations and relations to international organisations, judicial and administrative authority proceedings and intellectual property.

The right to freedom of information and civil organisations intent on enforcing this right are often looked upon as enemies by governments, even by those that otherwise do not deny democratic values. The reason for this is that though the freedom of information is not a political instrument but a constitutional value, it is the opposition that can make most profit from it.

One of the most important work means in the hands of NGOs is, nevertheless, the request for access to data of public interest. In 2015 there was general social upheaval concerning the considerable restriction of the freedom of information.

According to the new regulation the organ that processes the data and performs public function is not obliged to comply with the request if it was submitted by the same person/organisation within one year. This is not necessarily dramatic restriction as the provision covers only data of the same type and only if there has been no change in those data. Several NGOs are,

however, suspicious of this new regulation, arguing that it might lead to new abuses by authorities wishing to hide certain data.

It is, nonetheless, serious restriction that the organ that processes the data and performs public function is not obliged to grant a request submitted anonymously. Under Hungarian law it was earlier possible to submit a request for data of public interest anonymously, taking into account the fact that this is a human right accorded to everyone. The person who requests data is often apprehensive of vengeance by the data controller, therefore, this regulation is highly objectionable.

It is also to be deplored that if the request covers a significant amount of data or compliance with the request demands extraordinary and disproportionate human resources at the organ performing public function the deadline can be extended and the costs might be imposed on the person/organisation that requests the data. The person requesting the data can receive copy of the document or part of document that contains the requested data, regardless of the method of storage. In exchange for granting the request, the organ that processes the data and performs public function can ask for payment of a charge proportionate with the costs, upon which the person requesting the data has to declare within thirty days whether (s)he is willing to bear the costs and pay it to the organ before the request is granted. Under the old regulation organs performing public function had to provide data free of charge, only the costs of printing or scanning were imposable. Civil organisations, journalists and news forums are often not in the financial situation to pay costs imposed sometimes arbitrarily, leading to grave restriction of rights.

All results of the collection of statistical data, except for classified data, are public (see Article 17, para 1 of the Act on Statistics). The provision of statistical data in the form of aggregates can be said to be reliable in Hungary. There has been no information on intentional falsification or abuse of statistical data, which is quite frequent in autocratic states. There have been some cases of manipulation, however. The government-critical news site, [gepnarancs.hu](http://gepnarancs.hu), stated in 2012 that industrial production fell by 3.4%, while according to the National Statistical Office industrial production rose by 1.1% in the same period. The reason for the difference was that the Statistical Office failed to take into account the fact that 2012 was a leap-year, therefore in February there was an additional working day and the comparison was made in respect of February of two years. (<http://gepnarancs.hu/2012/04/hogyan-lehet-statisztikai-tenyekkel-manipulalni/>) The news site considered the case to be an

example of manipulation of data. It is, by all means, worth pointing out that the error was not against the interests of the government. All in all, however, in our standpoint the provision of statistical data can be considered fair so far.

In 2015 EKINT wrote a background study on the commitments undertaken in the framework of Hungary's participation in the Open Government Partnership program. The aim of the research was to see how social consultation works in reality, especially whether the government meets the requirements stipulated in Act 131 of 2010 in practice, focusing above all on the issue whether it ensures access to data of public interest in the social consultation phase of legislation. The in-depth assessment of the governmental website indicated in the act yielded a sombre research result: social consultation in practice does not at all meet the alleged purpose of the legislator. Access to data of public interest related to social consultation is practically impossible, or if it is possible, it is unnecessarily complicated, non-transparent and full of obstacles. EKINT spotted the following problems:

- though the addressees of regulations can express their opinion on the bills directly, they do not have access to the bills themselves in the ways and places regulated by law, therefore they have to do research in order to find the bills, which has a significant deterrent effect, furthermore, the time provided for opinions is outrageously short in most cases;
- it causes great concern that the schedule of planned legislation, regulations submitted for subsequent evaluation, the agreements on strategic partnerships, as well as agreements reached at personal meetings are extremely difficult to find and in most cases they are not available on the website indicated but on other sub-portals of various ministries;
- the amount of bills submitted by individual MPs, which makes it possible for the Parliament to neglect social consultation is extremely harmful and allows one to conclude that in the National Cooperation System the institution of social consultation is only a paper tiger.

That the government passed a decision (no. 1460/2015) to draw up a second action plan in respect of the commitments undertaken in the period 2015-17 in the framework of the OGP program might be taken as a sign indicating that the above-mentioned concerns have at least been noticed.

## Think Tanks and innovations

### *Questionnaire*

- What is the role of technology and innovation in the business of Think Tanks as regards:

- issue spotting,
- enhancement of research quality,
- earning influence?

We live in a society in which innovations and new technologies appear almost every day. Therefore it is difficult to define innovation. We can consider the new possibilities of information society as innovations, including the Internet and social media as well. However, in this report we will only mention those initiatives, projects and practices that can be considered as unusual platforms of the work of legal think tanks and NGOs in Hungary. In the following sections some exemplary online and offline initiatives will be presented that NGOs and legal think tanks use for issue spotting, for enhancing their research quality, for gaining more influence or engaging a larger audience.

Besides the exemplary practices listed here, NGOs and legal think tanks are present on various social media platforms (e.g. Facebook, Twitter, Instagram). There are several examples for the use of data-visualization applications and tools by think tanks to present or to interpret the result of their researches.

It also has to be mentioned that the main challenge in this field is financing as innovations and new technologies are usually expensive. Even if these innovative methods or practices were free or cheap, they would require a certain degree of investment of time and human resources that are always problematic issues at Hungarian NGOs and legal think tanks.

The lack of financial and human resources is also the reason for the fact that NGOs and legal think tanks rarely use a wide range of innovative technologies. Cyber-security is an especially critical area in this field. Though most of the legal think tanks are familiar with the newest technologies of data protection and encrypted messaging, with few exceptions (e.g.: Átlátszó.hu or the Hungarian Civil Liberties Union) they do not use them during their everyday work. In the future it would be worth considering the application of some of the newest data- and online privacy protection techniques.

### ***Exemplary initiations / Best practices***

#### *a) KiMitTud (kimittud.org) – a Freedom of Information request platform by Átlátszó.hu*

KiMitTud (“WhoKnowsWhat”) is an easy to handle online tool for citizens to obtain information from government departments, agencies, and state owned companies. It is everyone’s right under the freedom of information laws of Hungary to request information from any public body, and they have to respond. Therefore, Átlátszó.hu localised alaveteli.org's freedom of information request generator. It's a simple concept: citizens use the website to request information, and the replies are recorded for all to see on the website. Historic requests, along with any resulting correspondence, are archived publicly online. Since its launch in 2012, KiMitTud has enabled more than 5900 freedom of information requests and more and more citizens are discovering its power.

#### *b) Red Flags in Public Procurement*

The Red Flags project aims to enhance the transparency of public procurements in Hungary and support the fight against corrupt procurements.

#### *c) Panama in Budapest – Urban walking project about corruption in Hungary*

K-monitor along with [Hosszúlépés](#) (Long Step) initiated this project at the end of 2014. Hosszúlépés is an urban walking project launched in 2013 with the aim to explore Budapest from a different angle. K-monitor decided to couple this popular free-time initiation with the study of corruption. During the “Panama in Budapest” walks they mapped corruption in the present and in the past as well: from the 19<sup>th</sup> century’s corruption cases, through the communist area to the suspicious real estate businesses after the system change. They sought to show how corruption worked in the past and has changed to the present.

This urban walking project was also a part of the fundraising process for the Red Flags project (read more about it in point b)). K-monitor used the money coming from the tickets for the walks to finance its cooperatively launched mobile application on public procurements. In this way the new technology provided by the new possibilities of information society could meet with the offline world and creative innovations. This initiation is exemplary, because it

was able to make the abstract issue of corruption visible and easy to understand.

*d) E-learning materials by Mérték Media Monitor*

In 2015 Mérték Media Monitor published several [E-learning materials on their website](#) on the issues of hate speech, individual rights, the right to information and data protection. These materials contain descriptive information, questionnaires and explanations. In this way this e-learning platform makes it possible to reach a larger audience, as well as to spread knowledge and information on abstract and difficult issues. The interactive nature of this platform helps to understand these questions and engages a wider audience.

*e) Interactive map of EU-subsidies in Hungary between 2007 and 2015:*  
<http://adat.atlatszo.hu/eu-terkep/>

Átlátszó.hu launched this exemplary initiation at the beginning of 2016. The interactive map of Hungary that they created shows the amount of EU-subsidies coming to Hungary nationwide and on the level of municipalities as well. It consists of three different layers that depicts

- a) the average yearly EU-subsidies between 2007 and 2015;
- b) the yearly EU-subsidy per capita between 2007 and 2015;
- c) EU-subsidy by political affiliation.

Similarly to the E-learning materials this data-visualisation project helps to understand the complexity and the amount of EU-subsidies coming to the country in an interactive and engaging way. Besides, this tool is also able to uncover possible corruption-cases by revealing the largest receivers of EU-subsidies.

## Think Tanks – success stories

### **Questionnaire**

- *What are the examples that you recommend to follow in the activity of think-tanks? What is the formula for operating an efficient and influential think-tank?*
- *Please name examples of particularly effective/successful methods or projects in this respect.*
- *Please provide, if possible, concrete examples of successful interaction of the Think Tank and Government. What determined the success in that case?*
- *Are there policy areas in which think-tanks prove to be particularly useful and effective?*
- *What should be the products of a think-tank?*

The Hungarian government perceives civil entities that are critical of the government as its enemies, not as its partners. Furthermore, due to the destruction of the national constitutional system in Hungary, constitutional values can no longer be enforced before national courts. This can be one of the main reasons why think tanks have come to put a special emphasis on bringing cases before European fora. As it can be seen from the undermentioned cases, involving international forums in these issues and exerting pressure through various international organisations is an instrument at the hands of think tanks in certain issues in the interest of the rule of law. In the hope that the conclusions reached by international or European judicial forums are put into practice, think tanks can mostly rely on the force of publicity. Besides these, at present there seem to be no best practices, whose functionality can be counted on with due reason.

### **Examples**

In general one can say that though legal think tanks achieve certain goals, these achievements, as a main rule, do not mean full success: the fact that rights violations come to light does not mean that they are being redressed. The following examples illustrate this lack of full success.

#### *a) Selection of candidates to the ECtHR*

One of the most important partial achievements recently has been that the legal think tanks, together with some other NGOs, have successfully pressurized the government to nominate candidates to the Hungarian vacancy

at the ECtHR in a transparent way. The members of the Court are selected by the Parliamentary Assembly of the Council of Europe from a list of three nominees submitted by the member state governments. The mandate of the current Hungarian judge, András Sajó, is going to expire in January 2017 and a new judge is needed. The Council of Europe regulations prescribe a number of requirements regarding the selection of candidates: the selection procedure shall be transparent and fair, and there should be an open tender for the post. Going against all this, the Hungarian government selected the three individuals whom it submitted on 26 August 2016 in secret. Following the protest by several NGOs, on 13 September 2016 the government decided to withdraw its list and publish an open call for the post. In order to ensure the highest possible enforcement of selection procedure rules, the representatives of civil society turned to the Minister of Justice in an open letter to demand transparency. Simultaneously, the NGOs addressed the candidates to publish their applications on a platform dedicated to this issue: <http://emberijogibiro.hu>.<sup>82</sup>

*b) Szabó and Vissy vs. Hungary*

It is also a considerable achievement that in the case of Szabó and Vissy v. Hungary filed by the applicants Máté Szabó, earlier director of EKINT and Beatrix Vissy, earlier member of EKINT, the ECtHR held that the Hungarian regulation of secret surveillance based on ministerial order violates the right to respect for private and family life enshrined in Article 8 of the European Convention on Human Rights. The decision, which was passed on 12 January 2016, was contested by the government, but the Grand Chamber rejected the government's appeal. After the decision had become final, EKINT wrote several letters to the institutions responsible for the enforcement of the rule of law in order to elicit the legal consequences of the decision, however, until December 2016 no step was taken to modify the legal rules that are contrary to the Convention. The regulation in force at present allows for the Minister of Justice to order the secret surveillance of any individual by the Counter-Terrorism Centre without any judicial control mechanism.

*c) The removal of the data protection ombudsperson from its office*

It was also an achievement of the Platform of Rule of Law Defenders that in 2014 April the European Court of Justice established that the replacement of the office of the data protection ombudsperson with the National Authority for

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<sup>82</sup><http://www.helsinki.hu/strasbourgi-birojeloles-a-civilszervezetek-nyilvanossagot-kovetelnek/>

Data Protection and Freedom of Information was unlawful. According to the decision, when the Hungarian state abolished the data protection institution on 1 January 2012 with the entry into force of the Fundamental Law, it went against European Union law. In the Court's understanding, the independence of the organ responsible for data protection involves respect for the mandate of the authority. The abolishment of the institution meant the termination of the mandate of the independent ombudsperson: the institution was abolished before the expiry of the six-year mandate of the elected ombudsperson AndrásJóri. The infringement procedure was initiated by the European Commission against Hungary. Before the launch of the procedure, EKINT had warned the government of the possible infringement procedure,<sup>83</sup> and had drawn the attention of the President of the Commission, José Manuel Barroso, to the issue together with HCL and HHC.<sup>84</sup>

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<sup>83</sup> <http://ekint.org/media-es-sajtoszabadsag/2011-05-09/magyarorszag-legyozi-onmagat>

<sup>84</sup> <http://ekint.org/az-allam-atlathatosaga-informacioszabadsag/2011-10-17/a-kormanytobbseg-az-adatvedelmi-biztos-hivatalanak-megszuntetesevel-rosszul-merte-fel-mozgasteret>

## Think Tanks – communications and media

- *What are the methods of formulating the results of think-tanks work, ways of communicating with the public?*
- *Are there in your country any best practises in relation of Think Tanks and media contacts?*

### **Questionnaire**

- *How should the Think Tanks structure their relation with the media? Are there specific products, ideas, or methods of presentation that Think Tanks should address to media?*
- *What do the media need from Think Tanks?*
- *Why would media consider a Think Tank reliable and why unreliable?*
- *Should Think Tanks run their own social media projects?*

Communicating with the public is an essential part of the work of NGOs and legal think tanks. Strong media presence and effective communication is almost as important as the activity and the research itself that these organisations conduct. Since the cooperation between legal think tanks and the government or other governing bodies is extremely limited in Hungary, the value of communication with the public is increasingly high. All legal think tanks are aware of that, therefore they put a great emphasis on communication.

### **Channels of communication**

Hungarian legal think tanks and NGOs use various channels to communicate with the public, including websites, blogs, social media, newsletters and mail lists. All these instruments help to increase the influence of legal think tanks on the public and political agenda. The sufficient use of these communication channels are also able to remarkably strengthen the reputation of legal think tanks, which is crucial in such a hostile working environment that is prevailing in Hungary.

#### *a) Website*

All legal think tanks operate a website. In most of the cases this is the central and most important communication channel for them. Websites can be considered as the basis of communication and the very existence of all legal

think tanks and NGOs in Hungary. Legal think tanks publish here their research results, statements and news in connection with their activity. One can also find the most important information regarding the general activity areas and financing issues of legal think tanks on their websites. Therefore websites serve not only as communication channels for legal think tanks and NGOs but ensure a transparent operation as well.

Besides their main websites several legal think tanks operate separated websites for certain projects and initiatives. This method helps to gain and engage a larger audience in the specific projects, since its contents are more carefully and precisely targeted. We can mention here for example Átlátszó.hu's Freedom of Information request platform, KiMitTud (<http://kimittud.org/>) or the website for the School and Politics project (<http://iskolaespolitika.hu/>) launched by EötvösKároly Policy Institute. It is also a common practice to create a specific sub-page for certain projects connected to the main website of the legal think tanks. For instance, the Hungarian Civil Liberties Union (HCLU) uses this technique frequently to communicate their projects on different issues (e.g.: <http://politikuss.tasz.hu/>, <http://negyedikpont.tasz.hu/>, <http://gyerekelvagyok.tasz.hu/>).

#### *b) Blog(s)*

The main difference between these communication forms (i.e. websites and blogs) is that blogs are a more direct way of communication and they usually engage a younger audience. Furthermore it is also an important distinction that websites and sub-pages are capable of displaying more complicated structures with several sub-issues and sub-topics, while blogs usually have a strict linear structure. Therefore blogs are more suitable communication channels to publish news in connection with a project, while websites are a better means for communicating projects consisting of several kinds of elements and materials.

Besides website(s) several legal think tanks operate blogs for certain projects for the same reason mentioned in the previous section. For instance, we can highlight EötvösKároly Policy Institute's blog connected to the University Citizen project (<http://egyetemidemokracia.blog.hu/>) or Transparency International Hungary's anti-corruption blog (<http://korrupcio.blog.hu/>).

In some cases legal think tanks use blogs to communicate with their audience in a more direct form. They publish shorter materials on their blogs connected to their projects, research or everyday news. This method enables faster

reaction and reflection to news or steps of the governing bodies. Such blogs are for example the HCLU's blog on general issues (<http://ataszjelenti.blog.hu/>) or <http://helsinkifigyelo.blog.hu/> operated by the Hungarian Helsinki Committee. Furthermore Mérték Media Monitor operates a blog (<http://mertek.hvg.hu/>) under one of the largest and most popular online news sites' domain, HVG.hu. In this way they can reach a significantly wider audience than they could on a separate blog site.

*c) Social Media: Facebook, Twitter, Instagram, Youtube*

Social media is the most direct form of communication with the public. In Hungary Facebook and Instagram are the most popular social media channels and a considerable amount of people watch videos on YouTube, but only a small part of them follow YouTube-channels. Surprisingly, Twitter is only a marginal communication channel, although Twitter could serve as a tool for international communication for Hungarian legal think tanks as it is more popular abroad.

Therefore almost all of the Hungarian legal think tanks and NGOs have a Facebook page. It is a common practice of legal think tanks and NGOs to share materials on Facebook that were published originally on their website. In this way they can direct readers to their main pages and engage them to further readings. Facebook is also the platform to engage new audience, to advertise events and to start fundraising campaigns.

Most of the legal think tanks have a YouTube-channel. They publish videos here but it is more common that they share them on other social media channels, mostly on Facebook, or they embed them into their websites.

Átlátszó.hu (<https://twitter.com/Atlatso>), the HCLU ([https://twitter.com/tasz\\_hu](https://twitter.com/tasz_hu)), K-Monitor ([https://twitter.com/k\\_monitor](https://twitter.com/k_monitor)), Mérték Media Monitor (<https://twitter.com/MertekMonitor>), Political Capital ([https://twitter.com/pol\\_cap](https://twitter.com/pol_cap)) and Transparency International Hungary ([https://twitter.com/Transparency\\_HU](https://twitter.com/Transparency_HU)) have a Twitter-channel as well. The fact that these legal think tanks, with the exception of the HCLU, post on their Twitter-channels in English (Átlátszó.hu posts in both Hungarian and in English) indicates that this communication channel is dedicated only to the international audience. These organisations post mostly short news on or insights into their everyday activities or recent research results.

Furthermore Átlátszó.hu (<https://www.instagram.com/atlatso/>) and the HCLU (<https://www.instagram.com/ataszjelenti/>) are present on Instagram, too. Both

organisations are less active on this platform than on other social media channels and they mostly post about their events, or sometimes about their co-workers' participation in an initiation. So the aim of using this social media platform is mostly to enhance popularity.

#### *d) Newsletter and mail lists*

Besides the above-mentioned communication channels all legal think tanks and NGOs communicate with their audience via newsletters or mail lists. Such direct communication is essential to keep in touch with the audience that has already been engaged in the activity of the organisation. Legal think tanks and NGOs notify and inform people, who have given their e-mail addresses before, about their latest research results, statements and other types of news connected to their activity via these e-mails. Sometimes these communication channels can serve as a tool for smaller fundraising campaigns, too.

### **Media presence**

Another essential way to communicate with the public is being present in the mainstream media. Via various media channels new audiences can be reached and engaged in activities or projects conducted by legal think tanks or NGOs. Such cooperation with media professionals can be mutually fruitful and beneficiary. The media gets important information, analyses and expertise on a variety of issues and topics from NGOs and think tanks, while think tanks and NGOs earn the opportunity to communicate with a larger audience and to gain popularity and social support to their projects and initiations via the different channels of the media.

However, Hungarian NGOs and think tanks mostly struggle for this kind of media attention. The currently experienced hostile working environment against NGOs and against the civil sphere in general is fuelled by the governing Fidesz-KDNP party and the right-wing media. In addition, the Hungarian media system is unbalanced and a strong right-wing dominance characterises its ownership structure. Therefore, remarkably many media outlets represent NGOs negatively, as if they were unreliable, especially compared to the governing party politicians.

At the same time media outlets and media professionals that can still be considered critical and/or independent frequently cooperate with NGOs and legal think tanks. These media outlets often invite or cite experts of legal think

tanks. There are also several examples when legal think tanks were successful in setting the agenda of this part of the media market. For example, during the last 12 months EKINT and its experts showed up in various media outlets, including online news sites, print newspapers, television channels and radio stations, more than 300 times. Such good relationships should be maintained and extended to a wider range of media outlets in the future.

## Cooperation of Legal Think Tanks

- *Do Think Tanks cooperate with each other. Are there any country networks, coalitions, and umbrella organizations? Please elaborate and describe particular projects if relevant.*
  - *Do Think Tanks cooperate with Think Tanks from abroad? On what kind of project?*
  - *If there is cooperation – what added value it brings.*
  - *What are the best practices regarding cooperation between Think Tanks worth sharing?*
  - *What are main challenges?*
  - *Recommendations – based on your desk research, your assessment of the situation as well as interviews (focus groups) what would you recommend in this context for the future. Recommendation should at least include two elements: who, and what shall perform, accomplish, take into consideration etc.*
- Can you formulate any recommendations for the future?*
- *on country level?*
  - *on regional level?*

One of the main characteristics of the Hungarian non-governmental organisations and legal think tanks is that they work independently not only from the government and other state bodies but usually also from each other. There is no umbrella organisation or constant coalition, which would fundamentally define the everyday work of these organisations. This structure ensures a high degree of autonomy to all legal think tanks and NGOs.

However, NGOs and legal think tanks work in close cooperation with each other on certain issues. The number of participating organisations and the degree of their involvement in a certain project vary in each case. It is not typical that Hungarian think tanks or NGOs would cooperate with think tanks from abroad, although there are few examples of international cooperation as well.

Hungarian think tanks and NGOs usually struggle to ensure enough financial and human resources for larger, more comprehensive projects on their own. Cooperation with each other is therefore essential to carry out extensive work. Publishing joint statements guarantees larger audience and it increases the chance that the national or the international media report on the case. Publicity

could be crucial to reach goals and increase the social support of specific cases and in general civil advocacy as well. Furthermore, the cooperation of different organisations suggests that the case in question is more significant, more urgent or there is a broad professional consensus behind the statements. This latter argument also strengthens the position of the cooperating organisations against the government or the state bodies if negotiations are launched.

Because of the current political situation, in which democratic values, human rights and the rule of law are frequently violated, NGOs and legal think tanks cooperate not only in policy issues and strictly professional questions, but they participate in opposition activism as well. (See examples below.)

In the future extensive cooperation in specific cases should be continued, at the same time it would be important to consider cooperation with a wider range of NGOs and promote more interdisciplinary policy initiations. It would also be beneficial to increase the number of projects based on international cooperation although this again depends on the amount of available financial and human resources. On the national level the cooperation of NGOs and think tanks in opposition activism remains essential in the future in order to protect democratic values and the rule of law.

### ***Cooperation in policy issues and professional questions***

The Hungarian NGOs and legal think tanks frequently publish joint statements on policy issues and cooperate in professional matters. This cooperation is based on shared values and goals. The range of participating organisations and their depth of involvement in the joint work vary in each case.

#### **Exemplary initiatives / best practices**

##### *a) Joint initiative for the amendment to the electoral procedure law*

In May 2013 five NGOs and legal think tanks (EötvösKároly Institute, the Hungarian Civil Liberties Union, the Hungarian Helsinki Committee, Political Capital and Transparency International Hungary) initiated an amendment to the electoral procedure law in order to close loopholes that remained open for election fraud. The government integrated most of the proposed amendments, so this was a highly successful initiation. About the proposed amendment one can read more in Hungarian at the following link:

<http://ekint.org/alkotmanyossag/2013-05-06/ellenorizheto-nevjegyzekek-nelkul->

### [nincs-tiszta-valasztas](#)

#### *b) Joint statement on the election of judges to the European Court of Human Rights*

In June 2012 fifteen NGOs and legal think tanks, including EötvösKároly Policy Institute, the Hungarian Helsinki Committee (HHC), the Hungarian Civil Liberties Union (HCLU), NEKI and Transparency International Hungary, published a joint statement on the election process of the judges to the European Court of Human Rights. The organisations maintained that the Hungarian government created the list of candidates arbitrarily, in a non-transparent and inconsistent way and without any negotiation with the professional organisations. Therefore they demanded the withdrawal of this unjustified candidate list and the establishment of a transparent and consistent selection process. First they wrote an open letter to the Minister of Justice, later in July they also appealed to the European Commission. In September 2016 the government withdrew the list, therefore this can be interpreted as a successful cooperation. More information about the initiation can be found in Hungarian at the following links:

<http://ekint.org/az-allam-atlathatosaga-informacioszabadsag/2016-06-24/titkoloznak-a-lehetseges-uj-strasbourgi-biro-szemelyerol>

<http://ekint.org/az-allam-atlathatosaga-informacioszabadsag/2016-07-27/strasbourgi-birojeloles-elfogadhatatlan-a-magyar-lista>

#### *c) Joint initiation for the amendment of the campaign finance law*

In late 2013 Transparency International Hungary and Political Capital initiated an amendment to the campaign finance law in order to prevent public money from finding its way to sham parties established in the hope of pocketing campaign support. Though Fidesz-party speakers announced immediately that they were open to the new proposal, they did not accept any of the suggestions. In early 2016 they indicated again that by the end of the year they would make the necessary changes in the law.

## **Cooperation in specific projects – Exemplary initiations / best practices**

### *a) The Rule of Law In Hungary – Analyses on the Constitutional Changes in Hungary*

Between 2010 and 2013 three NGOs and legal think tanks, the Hungarian Helsinki Committee (HHC), EötvösKároly Policy Institute (EKINT) and the Hungarian Civil Liberties Union (HCLU) reviewed and commented the way the Fidesz-KDNP Government performed its legislative work and altered the constitutional system, and consequently submitted their criticism in several joint opinions and analyses. Among others they investigated the different waves of legislation during this time; assessed the changes of the constitution; commented on the first five amendments of the Fundamental Law of Hungary; published several fact sheets on various topics (for example: administration of courts, mandatory retirement of judges, rights of opposition, constitutional court, the independence of the Data Protection Authority, media regulation, the new Church Law); analysed the Hungarian Government's responses to the Venice Commission's criticism on the new acts on prosecution service, on the Constitutional Court and on the new Fundamental Law of Hungary; and wrote open letters to representatives of international legislative bodies about their concerns regarding the rule of law in Hungary (for example to Thorbjørn Jagland, Secretary General of the Council of Europe or to Viviane Reding, Vice President of the European Commission). The cooperating NGOs and legal think tanks published their statements, analyses and other materials on their own websites and on a joint platform as well, which is available here: <https://sites.google.com/site/ruleoflawinhungary/>

*b) "Ez a minimum" ("That is the minimum") project*

"Ez a minimum" is a project on anti-corruption policy advocacy and legal analysis, which is based on a cooperation of several international and Hungarian NGOs and legal think tanks. Átlátszó.hu Investigative Journalism Centre, K-Monitor and Transparency International Hungary launched this initiation in 2014 with the desire to bring transparency and accountability to the use of public funds in Hungary – 25 years after the fall of communism. The website of the initiation can be found here: <http://ezaminimum.hu/> This initiative of Hungarian anti-corruption NGOs, targeted at state organs, local municipalities and candidates for elected offices, is a set of anti-corruption actions that form a basis for a sound anti-corruption and transparency policy. The participating NGOs had advocated for national level proposals (with mandatory publication of public contracts, party funding reform, strengthening conflict of interest rules and the limitation of "revolving doors effect" among them) and also provided a separate set of requirements for local

municipalities. “Ez a minimum” project is among the rare exceptions for constructive high-level cooperation, in the frame of which proposals and legal support were provided informally for individual state organs. The relative effectiveness of such efforts tells a lot about the current political environment for the cooperation with the government in our core activities.

*c) Képmutatás.hu - Campaign Monitor*

Along with Transparency International and Atlatszo.hu, K-Monitor monitored the campaign-expenses of political parties in campaign periods and published the results on the website <http://kepmutatas.hu/>. The aim of the project was to help the voters to have a better understanding of the campaign of political parties and their real costs, since comprehensive data on campaign funds is not available. Aside from the parties, the expenses of the government and NGOs supporting the campaigns of parties were also monitored. Data were collected through press monitoring, research and the work of volunteers visiting local campaign-events.

*d) The Network Database*

The aim of the [Network project](#) is to explore the network of the Hungarian economic and political elite and to make the distribution of public funds more transparent. The database makes public procurement procedures, EU-funds and farm subsidies searchable and processable, and helps to explore the background of the political and economic decision-making mechanisms. The Network was set up in co-operation with Transparency International Hungary and the Hungarian Civil Liberties Union (HCLU), and with the support of Open Society Institute and CEE Trust. The database has been accessible to the public since autumn 2013.

*e) Red Flags in Public Procurement*

This project has been described in detail in chapter „Information society and the legal system and administration.”

### ***Cooperation in opposition activism***

In the current political situation the government or other state bodies that are captured by the governmental elite frequently violate fundamental rights and the rule of law. It is left for the NGOs and legal think tanks to protect these values and they cooperate not only in policy issues and strictly professional

questions, but participate in opposition activism, as well. There are several examples of this cooperation realized in the form of demonstrations or joint statements. Two initiations as examples are highlighted here:

*a) Joint statement on invalidating the referendum held on 2 October 2016 and demonstration against the referendum on 30 September 2016*

On 2 October 2016 a referendum initiated by the government was held with the following question appearing on the ballot: "Do you want the European Union to be entitled to prescribe the mandatory settlement of non-Hungarian citizens in Hungary without the consent of parliament?" Twenty-two NGOs and legal think tanks, including EötvösKároly Policy Institute, the Hungarian Helsinki Committee (HHC) and the Hungarian Civil Liberties Union (HCLU), published a joint statement, which called upon people to abstain from the referendum or cast an invalid vote in order to invalidate the referendum. The participating organisations maintained that the question of the ballot was unlawful and went against constitutional requirements. Besides, the referendum itself fuelled discrimination and hate against migrants and refugees in Hungary.

Some of the organisations, including EötvösKároly Policy Institute, the Hungarian Helsinki Committee (HHC) and the Hungarian Civil Liberties Union (HCLU), together with other NGOs and private individuals initiated a demonstration on 30 September 2016. The demonstration wished to emphasize positive values: peace, human rights, freedom and solidarity in contrast to the inhuman nature of the referendum.

*b) "Who is JánosLázár?" – Demonstration against the violation of media freedom in June 2014*

Origo.hu is one of the largest and market leading online media outlets in Hungary. In June 2014 its editor-in-chief, GergőSáling was removed from his position after the portal published an investigative report about an extraordinarily expensive foreign trip of JánosLázár, member of the cabinet. Because of this move most staff and all of the leading journalists of Origo quitted their jobs immediately. Observers later also concluded that the reason for removing the editor-in-chief was that the owner of Origo, the Deutsche Telekom could not withstand political pressure.

Therefore, along with the former employees of Origo, several NGOs and legal think tanks took part in the demonstration of 9 June 2014 entitled "Who is JánosLázár?" against the clear violation of media freedom.

## Think Tanks and their limits

### Questionnaire

- *What is the interaction between the activity of Think Tanks and lobbying? How should this relation be shaped?*
- *What is the interaction between the activity of Think Tanks and activism? How should this relation be shaped? Should Think Tanks get involved in social activism?*
- *Should Think Tanks look for opportunities to influence important judicial decisions (e.g. file amicus curiae briefs)?*
- *Does independence of Think Tanks matter? If yes, what are the principles for economic and political independence of research think-tanks? Where is the threshold that a think loses its independence? What is the relation between independence and transparency?*
- *Should Think Tanks operate as business entities that provide research services for remuneration?*
- *What should be avoided in the activity of a think-tanks? Please name examples of bad practice.*

In the past six years Hungarian civil society - including think tanks - has been facing a huge challenge regarding lobbying and advocacy efforts. The situation had not been satisfying before 2010 either, but at least the NGOs' proposals were usually taken into consideration. Since 2010 it has become extremely difficult to lobby/advocate in the professional and political sphere. In the past years the government has been systematically excluding civil organizations and think tanks from decision making (see e.g. *Legislative process*) which has undermined their capability of lobbying and advocacy. At the same time, ironically, cooperation itself has become dangerous for NGOs as the government is not hesitant to legitimize any of its measure by invoking "dialogue" with civil society even if the latter explicitly deplores that measure in the course of the dialogue.

The Fundamental Law and all the amendments were passed without real social and professional debate. The latest example of this phenomenon is the changes of the refugee law in Hungary. Last year the government modified every statute related to asylum even though all the professional organizations

and think tanks (e. g. the HHC) were strongly opposing the changes that are contradictory to fundamental rights and the international directives.

In a democracy think tanks ideally do research and make recommendations on various issues and public affairs. In an illiberal democracy think tanks need to adapt to the circumstances and step out of this classic advocacy and watchdog role. Most of the civil organizations and think tanks have been facing this challenge: they feel the urge to do something more in order to protect the rule of law and the democracy. The latest example probably is the HHC, which got involved in the refugee crisis in an activist way besides legal advocacy. They made leaflets, for example, for activists to encourage them to give more effective help to refugees. For opposition activism of think tanks see *Cooperation of think tanks*.

Strategic litigation as well as filing amicus briefs are important elements of the toolbox of several NGOs with a think tank profile. In constitutional issues amicus briefs were submitted to the Constitutional Court. As we mentioned before (see *Internationalisation of law*), due to the destruction of the national constitutional system, in recent years the think tanks have undertaken a more activist role in litigation before European fora and filed several amicus briefs to the ECtHR. Taking into consideration the attitude of the government towards NGOs, turning to independent courts and triggering or influencing judicial procedures have increased in importance in Hungary.

### **Financing of legal think tanks activities**

In the present political situation think tanks have no or very little access to state funding. Unlike before 2010, the current government does not ask for think tank products and it does not finance their activities either. As opposed to this, however, the background institutions of the government receive considerable orders from the state; sometimes such orders are worth several billion (!) HUF. As a result, think tanks look for funding primarily from private donors (e.g. OSF) and international forums (EU, Visegrad Fund). The lack of resources causes considerable difficulties for think tanks; some of them have just closed down explicitly due to lack of funding. At the same time, NGOs that receive funding from the EEA/Norway Fund or the Open Society Foundations,

have been continuously attacked by the government, and some of these politically motivated attacks had legal consequences.<sup>85</sup>

NGOs use the classic ways of fundraising (e. g. collecting donations at events or on the internet, as well as turning to bigger sponsors). Crowdfunding is not wide-spread though there have been instances of it, e.g. the HHC used crowdfunding to collect money to pay the fee of lost court cases.

## Independence

Rather than clear-cut and exclusive categories of independent vs. dependent institutions, independence might be conceived as a scale that ranges from autonomy and independence through quasi independence and affiliation to express dependence on the major source of funding. Hungarian think tanks show various degrees of independence. The think tanks examined in the present report all consider themselves to be independent NGOs whose major source of funding comes from grants awarded in open tenders (EU, Visegrad Fund, EEA/Norway Grants, Open Society Foundations) and citizens' donations constitute a minor part of their income. However, as these independent (i.e. not party affiliated) NGOs have to rely increasingly on international donors, the scope and agenda of tenders have started to shape their activities, pushing them in the direction of DONGOs: what they can get engaged in is, to some extent, determined by the policy focus of the international donors. While international funds are an important means of NGOs' survival at present, the policy areas supported by these donors might not necessarily be the ones NGOs would engage in, if they had other means of funding too. While Hungary is grappling with the dismantling of democracy, the rule of law and constitutionalism, the EU tenders which more or less take all these for granted might not be the ones Hungarian NGOs most need.

Among the think tanks in this report there are some that operate as business entities too and they offer consultation services and receive orders for remuneration. For example, Republikon Institute, Political Capital or Policy Solutions provide such services.

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<sup>85</sup><http://www.helsinki.hu/en/timeline-of-governmental-attacks-against-ngos/>

As opposed to the NGOs whose agenda is at most shaped by the donors but who maintain independence from political forces, there are government-affiliated institutions (GONGOs) at the other end of the spectrum that mostly provide analyses in line with the policies of the government. Out of these, regarding impact and presence in the media, perhaps the most important organisations are Századvég Foundation and the Centre for Fundamental Rights.

### **Századvég Foundation<sup>86</sup>**

Regarding its legal status the organisation is a foundation, however, interviews and court documents reveal its much more complicated nature and specific status.

According to its website it emerged from the intellectual background of the young generation that played an active role in the political transition of Hungary and has made a big leap since the early years' focus on publishing and education.<sup>87</sup> Its mission is to provide research on which government decisions can be based and to provide support in creating a successful national strategy. Its activities are supposed to cover the whole spectrum of public life and it professes to have firm knowledge in opinion polls, best practices, innovation and various specific policy fields. In an interview in January 2017 the chairman of the foundation's board of trustees described the organisation as a kind of "ministry of thought", implying that their main task is to support the government and the prime minister with their counselling activities.<sup>88</sup> In the same interview the chairman also revealed that the foundation accomplishes its work based on a framework contract with the government on counselling and research. Branding itself as "the most important brain trust", the foundation's declared mission is to support the government<sup>89</sup> – this feature distinguishes it clearly from the Centre for

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<sup>86</sup>Századvég means „fin de siècle”.

<sup>87</sup><http://szazadveg.hu/hu/szazadveg-csoport/alapitvany/kuldetes>

<sup>88</sup><http://www.szazadveg.hu/hu/hirek/igy-alakul-at-2017-ben-a-szazadveg-alapitvany>

<sup>89</sup><http://www.szazadveg.hu/hu/szazadveg-csoport/alapitvany/migraciokutato-intezet>

Fundamental Rights, which tries to appear a civil society organisation. While it primarily conducts research in the field of economy, its profile encompasses digital economy and energetics, and after the first peak of the refugee crisis in 2015 autumn it established the Migration Research Institute.

In spite of the fact that the foundation has a framework contract with the government, it does not disclose its work to the public and a series of legal procedures has had to be launched so that the public money spent on research by the foundation could to some extent be revealed. A journalist sued the Office of the Prime Minister and demanded public access to the studies that the government ordered from the consortium of Századvég Political School, Századvég Economy Research Center and Strategopolis for almost 4 billion HUF.<sup>90</sup> In the legal procedure that started in 2012 the journalist was represented by the Hungarian Civil Liberties Union. There was a need for a legal procedure because the Office of the Prime Minister had rejected the journalist's inquiry as to the content of the contract several times. In the case that lasted for several years, the Office of the Prime Minister claimed that the studies in question were materials on which decisions would be based and their publication would breach public and national safety interests as well as national economy interests. Besides that the studies were not accessible for the public, there were uncertainties as to the payments too: according to some, the remuneration was paid before seeing the final product.<sup>91</sup>

The studies were finally released in February 2016. The Minister leading the Office of the Prime Minister, János Lázár, expressed the government's satisfaction with the performance of the consortium and stated that they would count on its work later on too. Referring to the reasonable price of the commissions, the government was not willing to make any change in the contract.<sup>92</sup> Beyond government circles, however, the materials published did not elicit unconditional praise: the vs.hu news portal commissioned a review of

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<sup>90</sup><http://vs.hu/kozelet/osszes/a-miniszterelnokseg-atadta-a-kiperelt-szazadveg-tanulmanyokat>

<sup>91</sup><http://vs.hu/kozelet/osszes/a-kormany-nak-elso-fokon-ki-kell-adnia-a-szazadveg-tanulmanyokat>

<sup>92</sup><http://vs.hu/kozelet/osszes/a-miniszterelnokseg-atadta-a-kiperelt-szazadveg-tanulmanyokat>

the studies and experts found that most of the materials were meaningless compilations of data of uncertain date.<sup>93</sup>

During the legal proceedings a single framework contract was revealed – the foundation is probably much more influential than it appears. It certainly avoids publicity.

### Centre for Fundamental Rights

Judging its profile only based on its website, the Centre for Fundamental Rights definitely belongs to the category of legal think tanks. Having been established in 2013 by young lawyers and students of law, it is quite a young organisation whose primary field of research is the rule of law and the protection of fundamental rights. Beyond the names of the research director (PéterTöröcsi) and the director (MiklósSzánthó), the website does not give information about the members of the organisation and the CVs of the directors are not provided either. Besides Töröcsi and Szánthó a third member can be identified whose name is IstvánKovács – he appears on media platforms as the strategic director of the organisation. A few months after the establishment of the Centre for Fundamental Rights, Atlatszo.hu made an inquiry as to the members of the organisation and the authors of its published studies but the answer that it received did not contain any new names besides those familiar from the organisation’s website. One of the investigative journalists of Átlátszó identified some persons who took part in establishing the organisation.<sup>94</sup> The analysis pointed out that the organisation’s cradle was the youth organisation of the Christian democratic party KDNP. The director MiklósSzánthó for some time was a member of the youth organisation of the Fidesz ruling party and PéterTöröcsi was a Fidesz-KDNP member of a local government. As Átlátszó implies, there is every reason to assume that the members of the Centre for Fundamental Rights are the friends of BenceRétvári parliamentary state secretary, who was the leader of KDNP’s

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<sup>93</sup><http://vs.hu/kozelet/osszes/sir-es-nevet-a-szakma-ezeken-a-kutatasokon-szazadveg-aktak-ii>

<sup>94</sup>[https://oktatas.atlatszo.hu/2013/11/19/alcivil\\_altudomany\\_de\\_ki\\_allja\\_a\\_cechet/](https://oktatas.atlatszo.hu/2013/11/19/alcivil_altudomany_de_ki_allja_a_cechet/)

youth organisation between 2002 and 2011. According to its website, the partners of the centre are Századvég Foundation and Pallas AthénéDomusAnimae Foundation, which has ties with the Hungarian National Bank and which has had a number of corruption scandals since its inception.<sup>95</sup>

In spite of governmental anxieties about civil organisations' transparency, on its website the Centre for Fundamental Rights provides no data on its financial resources and its members do not answer journalists' questions in this field. Its functioning was to some extent disclosed in an article written by Átlátszó in 2015 May.<sup>96</sup> The article proves with data that the centre is financially supported by the government itself through a front company – in the media the centre presents itself as an independent civil organisation.

Since its establishment the centre has frequently appeared in the pro-government media – according to the centre's Facebook page, their members appear every day on one or other media platform.<sup>97</sup> This frequent media presence is in sharp contrast to the belief that civil organisations cannot express their opinion freely in the absence of democratic legitimation as expressed by MiklósSzánthó.<sup>98</sup> In its utterances the centre consistently defends the governmental viewpoint. Quite recently, on its 27 February 2017 hearing, the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) could listen to the oral intervention of the Hungarian Helsinki Committee, the Hungarian Civil Liberties Union, Amnesty International Hungary, as well as the Centre for Fundamental Rights. The representative of the latter praised the real flourishing of democracy in Hungary. The centre regularly raises the issue of quitting the EU and regards the European criticism of Hungary as political witch hunting, especially regarding the government's refugee policy.<sup>99</sup>

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<sup>95</sup><https://444.hu/tag/pallas-athene-alapitvanyok?page=3>

<sup>96</sup><https://oktatas.atlatszo.hu/2015/05/07/alcivilbebukottak/>

<sup>97</sup><https://www.facebook.com/alapijogokert>

<sup>98</sup><http://karcfm.hu/archiv/ki-legitimalja-a-civileket-hangolo-2017-02-07/>

<sup>99</sup>[http://magyarhirlap.hu/cikk/80274/Alaptalanul\\_tamadjak\\_a\\_szigoritast](http://magyarhirlap.hu/cikk/80274/Alaptalanul_tamadjak_a_szigoritast)

All in all the Centre for Fundamental Rights cannot be said to be an independent and autonomous legal think tank: it is supported by the government financially, and in return it works as a mouthpiece of the government and serves the government's communication goals.

## Part Two. Legal Think Tank Projects and Cards

### EötvösKároly Policy Institute

Name of the organization: Eötvös Károly Public Policy Institute

Year of establishment: 2003

CEO: László Majtényi and Bernadette Somody

Contact information: [info@ekint.org](mailto:info@ekint.org), [www.ekint.org](http://www.ekint.org)

(Website, Facebook, twitter, etc.)

#### Mission:

EKINT wishes to contribute to raising professional and general public awareness and to shaping the political agenda in issues with an impact on the quality of relations between citizens and public power. The Institute is deeply committed to the liberal interpretation of constitutionality, constitutional democracy, and individual rights, and works to support initiatives instrumental in bringing about a civil political culture inspired by the spirit of solidarity.

#### Key areas of activity and expertise:

EKINT pursues three different types of activities, and therefore addresses three different types of audiences.

- Firstly, through issuing positions on momentous political issues, hosting conferences, and authoring various publications and declarations, we seek to reach the general public, the entirety of the democratic political community.
- Secondly, by drafting specific policy proposals, conceptual papers and background studies we turn to political decision makers directly with a view to enhancing a constitutional, liberal perspective in legislation.
- Thirdly, the Institute engages in conducting long-term surveys and studies that investigate the state of certain institutions of the republic (e.g. the judiciary, the police, municipalities) as well as the state of certain public services (e.g. education, health care, the financing of culture). These investigations address the representatives of the relevant professions.

In the last decade, EKINT has established itself as a distinctive and well-known voice in Hungary's public life. Recently EKINT has become the most

relevant advocate of the restoration of constitutionalism. The Institute is the only NGO in Hungary which represents constitutionalism as a complex and comprehensive system of values. For the public actors interested in restoring constitutionalism the opinion of the Institute cannot be neglected.

## ACTIVITIES AND PROJECTS

In recent years EKINT has focused on three major areas:

- EKINT sets great store by preserving constitutional values and protecting the institutions of the republic. We closely monitor, document and analyze the process whereby constitutionalism is currently being dismantled in Hungary. By issuing public statements and initiating various legal procedures, we adopt a firm stance in defence of core constitutional values and their survival. The Institute is one of three NGOs that comprise the platform called “Defenders of the Rule of Law”, the other two NGOs being the Hungarian Helsinki Committee and the Hungarian Civil Liberties Union.
- From the outset, EKINT has subscribed to the view that the Fundamental Law of Hungary has, ever since its adoption in 2011, derailed from the course of constitutional democracy, both in its original form and in its various subsequent amendments. As the foremost domestic proponent of the cause of restoring constitutionalism in Hungary, the Institute considers it its fundamental mission to keep constitutional restoration on the political agenda and to contribute to the creation of public law and policy proposals indispensable for the success of that restoration effort.
- Although not a human rights NGO in the primary sense of the term (because it extends legal protection to individuals only on rare occasions), EKINT frequently speaks out on human rights related issues, a field that features emphatically among its research topics. In recent months - as a reaction to the current political situation - we have been focusing on fields whose institutions are gradually losing autonomy, such as education (schools and universities), the arts and the churches, and we have been also contributing to raising awareness of the Hungarian state’s inadequate response to the refugee crisis.

## BEST PRACTISES

The law on the freedom of electronic information, adopted on 4 July 2005 by the National Assembly, was based on the guidelines drawn up by EKINT in 2003. Since then the law got incorporated into Act 112 of 2011 on the Right to

Informational Self-Determination and on Freedom of Information.

## **PROBLEMS AND BARRIERS**

The problem with interaction with the government is not only that the government is unwilling to cooperate with think tanks that criticize its steps taken in the direction of pulling down constitutionalism, the rule of law and liberal democracy as such, but it openly attacks them and labels them paid agents who serve foreign interests. EKINT is surely such a paid agent in the eyes of the government, as it was founded by György Soros, who has been openly opposing the current government. The latest threat from the government has been that it will consider putting a list of 22 NGOs to secret service screenings. Obviously, under such circumstances one cannot speak of any possible cooperation in professional issues.

## **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

EKINT was founded by the Soros Foundation. It has a staff of 9, including lawyers, a political philosopher and a communication expert. It has worked together with other NGOs several times, e.g. HCLU and HHC. The Institute is open to cooperation with like-minded NGOs in projects suit its above-mentioned expertise and interest.

### **Projects of EötvösKároly Policy Institute**

#### **PROJECT TITLE:**

**University Citizens**

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)  
**comprehensive project including research, public discussions, recommendation for regulation**

#### **NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT**

(Contact information, website, person responsible)

**EötvösKároly Policy Institute**

**<http://egyetemidemokracia.blog.hu/>**

## PROJECT DESCRIPTION (please be concise, max 3000 characters)

EKINT launched a comprehensive program to protect democratic processes at universities and the rights of university citizens. The program, entitled “University Citizens”, began at the beginning of 2015. Promoting the participation of university students in public affairs, raising students’ consciousness of such issues, enhancing their commitment to democratic values, supporting the exercise of their rights, protecting the autonomy of universities against the government and introducing the university ombudsman institution were among the main objectives of the project.

Within the comprehensive project, EKINT, to take just one example, examined the introduction of a new body at universities, called consistories. EKINT reviewed the relevant act and then also submitted a complaint to the ombudsman about the unconstitutionality of the reviewed regulation.

### *Examining the unconstitutionality of consistories*

By amending Act CCIV of 2011 on National Higher Education the Parliament introduced a new body into the national higher education system as of 1 September 2015. Three members of the five-member consistory are appointed and dismissed by the minister responsible for education. Without the approval of the body, the senate of the university cannot adopt the budget or the institution development plan, an integral part of which is the research and development and innovation strategy.

### *Analysis*

In July 2015 EKINT made an [analysis](#) on consistories, in which it claimed that the establishment of such bodies is unconstitutional as it violates the principle of university autonomy and the text of the Fundamental Law itself. Universities, the basic institutions of scholarly activity, are entitled to autonomy and self-governance. The participation of a body in decision-making whose members are mainly appointed by the government is incompatible with the principle of autonomy.

### *Petition to the ombudsman*

EKINT started a procedure in the case: on 27 November 2015 we submitted a [complaint](#) to the ombudsman – this being the only way to challenge the constitutionality of the amendment before the Constitutional Court. Until

January 2012 anyone could request the ex post facto constitutional review of a law. Replacing this former instrument called *actiopopularis*, the new instrument called constitutional complaint was introduced with the significant difference that in such a procedure the petitioner has to demonstrate that (s)he will be harmed by the challenged law. Due to the political risks involved we did not find such a petitioner, therefore the only possibility for us was to turn to the ombudsman. EKINT called upon the ombudsman to initiate the constitutional review of the amendment of Act CCIV of 2011.

### **REPORT – PUBLICATION – POLICY PAPER?**

1. Two background studies, a sociological and a legal one, which served as a basis for our activities during the project
2. Guidelines on discussing politics at the university
3. Guidelines on the university ombudsman
4. Six university forums in Budapest and in the country
5. Strategic court cases
6. A blog (see above in chapter “Think Tanks – communications and media”)

### **PROJECT TITLE:**

**The restoration of constitutionalism**

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)  
**legal analysis**

### **NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT**

(Contact information, website, person responsible)

**EötvösKároly Policy Institute**

### **PROJECT DESCRIPTION**

In the last six years – facing the systematic dismantling of constitutional structures – **EKINT has focused on preserving and restoring constitutionalism in Hungary** using several different means for fulfilling its mission. We closely monitor, document, analyze and assess the process whereby constitutionalism is currently being dismantled, besides providing

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ongoing support for the professional and civil resistance against the campaign to undermine constitutional democracy. By issuing public statements and initiating various legal procedures, we adopt a firm stance in defense of core constitutional values and their survival. (The Institute often performs this mission in the context of the “Rule of Law Defenders”- Human rights NGO platform, in collaboration with the Hungarian Helsinki Committee and the Hungarian Civil Liberties Union.)

With a large variety of activities, **EKINT addresses different types of audiences** from professionals, through political decision makers to the general public, the entirety of the democratic political community.

## RESULTS

- **reports analyses, position papers and proposals** published in the largest-circulation dailies and weeklies (monthly public reports on the cause of upholding and reinstating the Constitution in 2010 and 2011; Eight Theses for the Restoration of Constitutionalism: A Proposition for the Exponents of Democracy” in 2012; “Restorative Constitutional Legislation” I-II in 2012; “Tasks of Constitutional Restoration in the Wake of the Fourth Amendment,” in 2013; “The past four years” studies on the most egregious abuses of basic constitutional values in 2014 as participants in the Rule of Law Defenders Platform; “Current tasks of constitutionalism defenders” suggestions calling for debate in 2014; “Legyenköztársaság! AlkotmánypolitikaivázlatMagyarországpolitikaiválságaidején” in 2015)
- **conferences** open to the public on fundamental and current affairs concerning Hungarian constitutionalism, several series of round-table discussions and debates with the participation of authorities in law, political science, philosophy and the media (2008: public political debates – “Jeopardies of the Third Republic;” 2010: conference entitled “Two-Thirds and the Constitution;” 2011: conference on “Two Constitutions (1989-2011): Constitutional Continuity and Interruption;” 2011-2013: round-table evening discussions “The Regime and its Criticism;” 2014: conference on the protection of the Constitution and fundamental rights entitled “The Door Ajar”)
- **volumes** on safeguarding the Constitution (2004: “What is in Store for the Constitution?;” 2009: “Threats Against the Republic; 2011: “The Squandered Constitution”, 2016: “HarczazAlkotmányért” [forthcoming])
- **online blog** called “The Constitutional Wise-Guy” explaining the most

important resolutions of the Constitutional Courts

- **animation film** with the aim of persuading viewers of the importance of the Constitution in our daily lives
- **cultural festivals with roundtable discussions** on national holidays
- **rotten-tomatoes prize** awarded at mass demonstrations to politicians deemed the most effective in the work of destroying the Constitution
- **campaign** calling on citizens to “adopt” Constitutional Court resolutions recently repealed (joined by more than 400 citizens)

## The Hungarian Civil Liberties Union

Name of the organization: **Hungarian Civil Liberties Union (HCLU)**

Year of establishment: **1994**

CEO: **Stefania Kapronczay & Mate Szabo**

Contact information: <http://tasz.hu/> , <https://www.facebook.com/atasz> ,  
<https://www.instagram.com/ataszjelenti/> , [https://twitter.com/tasz\\_hu](https://twitter.com/tasz_hu) ,  
<http://ataszjelenti.blog.hu/>

Mission: **HCLU strives to educate citizens about their basic human rights and freedoms, and takes a stand against undue interference and abuse of power by those in positions of authority.**

Key areas of activity and expertise:

- **Data Protection**
- **Disability Rights**
- **Drug Policy**
- **Freedom of Assembly**
- **Freedom in Education**
- **Freedom of Expression**
- **Freedom of Information**
- **Freedom of Thought, Conscience and Religion**
- **HIV/AIDS**
- **Patients’ Rights**
- **Political Participatory Rights**
- **Roma**

- **Self-Determination**
- **Video advocacy**

## **ACTIVITIES AND PROJECTS**

### **In general:**

- Legal advocacy: propagating international norms, publication of statement series, participation in the preparation of legislation and contribution to related parliamentary debates, motions (to the Constitutional Court and to the parliamentary ombudsman, etc.), public debates, workshops, participation in certain governmental workgroups, monitoring the implementation and enforcement of certain legislation;
- Legal aid service: telephone hotline twice a week and online counselling; Lawyers of the organization offer free of charge legal services to clients with cases connected to drug use, self-determination, patients' rights, equality for people living with HIV/AIDS, data protection, freedom of information, guardianship of people living with disabilities. In most cases, the HCLU provides legal advice and counselling to the client taking on representation before authorities (police, the courts, etc.) in strategically important cases.
- Strategic litigation
- Public education activities and legal empowerment trainings: informational leaflets series, public appearances: media, public debates, networking with organizations abroad, edition of policy papers on liberal legal policy; awareness raising and contribution to the public discussion of issues of concern (report, policy papers, advocacy videos, media campaigns).
- Publication of Policy Paper Series: Each issue sums up the liberal position on a legal policy issue involving a fundamental right; it surveys the Hungarian scene and outlines the main policy aim of the HCLU in the field. The Policy Papers are issued in both Hungarian and English.
- Observation of the activities of the European Union, the Council of Europe, the WHO, the UN and the World Medical Association: We collect the recommendations and norms that such organizations issue in relation to the patient/provider relationship and medical interventions. We make these documents accessible in Hungarian.

### **Program-specifically:**

“Legal Think Tanks and Government – Capacity Building”: project supported by the International Visegrad Fund ([www.visegradfund.org](http://www.visegradfund.org))

#### Data Protection Program:

What do we believe in? The goals of the program are to ensure that the state only handles indispensable data on citizens and to guarantee that people have the option to decide what information they wish to share about themselves.

What we are proud of? We exposed the unlawful handling of health related data in numerous cases. For instance, due to our legal advocacy activities, the head of the national ambulance organization issued an order that suspected drug use cannot be reported to the police.

#### Disability Rights Program:

What do we believe in? The program focuses on the rights of people with mental disabilities, especially those related to equality as citizens and recognized membership in the community. The most important goal is to eliminate totalitarian mass institutions and to develop programs in the community that promote integration; to reform the guardianship system, to advocate supported decision-making; to fight legislation attempting to restrict voting rights and to promote the right to education for children with mental disabilities.

What are we proud of? As part of the HCLU's activities related to de-institutionalization, it exposed a serious infringement on the rights of people with disabilities through a communication campaign in 2013. With the assistance of an online news website, the decision of two local governments to prevent former residents of institutions from moving into new homes was reversed.

#### Drug Policy Program:

What do we believe in? We believe that restrictive policies based on criminalizing drug use cause more harm than drug use itself, moreover, they are unable to eliminate it. The Program strives to protect the rights of drug users, to fight the stigma and to ensure access to evidence-based information and harm reduction services.

What are we proud of? Since its establishment, the HCLU has been a leading NGO in the field of drug policy reform advocacy not only in Hungary but worldwide. The Program has become the number one documenter on developments in the field of drug policy. This is amply demonstrated by the fact it was invited to be the official reporter of the International Drug Policy Reform Conference 2013.

#### Freedom of Assembly Program:

What do we believe in? Everyone has a right to raise her or his voice against social injustice peacefully, and state her or his opinion, shared with others, even if this opinion is supportive or harshly critical. This right can be realized by staying silent, talking, singing, wearing masks or by marching. Protesting publicly is a fundamental equipment of a vivid democracy.

What are we proud of? In numerous cases our lawyers provide successful legal aid for those whose planned assemblies are banned by the police, and challenge successfully these bans before the ordinary or the constitutional court. The HCLU is one of the most significant players in influencing jurisprudence in this field.

#### Freedom in Education Program:

What do we believe in? Children should have fair and equal access to public education that meets reasonable quality standards in a safe environment, regardless of their personal convictions. Hungary systematically violates children's rights by contracting out public education to churches without adequate guarantees of the religious neutrality of education, by obliging students to participate in classes where ethical or religious indoctrination takes place, and by radically limiting the freedom of schools and teachers in choosing teaching materials and curricula that do not reflect the governing parties' values. We strive to empower students, teachers and schools to stand up for children's rights by awareness-raising, legal counselling, and legal representation.

What are we proud of? We have discovered that the government is unwilling to reveal the terms and conditions under which churches operate public schools and kindergartens. We are suing the government to access and publish the contracts which specify the terms by which churches often are taking over the only public school in a given town.

#### Freedom of Expression Program:

What do we believe in? The freedom of speech and the press is essential to a well-functioning democratic society. Unless infringing on the rights of others, the right to express one's views freely in private or public - even if those views are shocking or offensive - is the basis of an open and democratic society. We believe that the right to freedom of assembly is a critical part of the freedom of expression.

What are we proud of? The HCLU successfully provided legal representation

to activists participating in peaceful civil disobedience campaigns: charges were lifted and its attorneys successfully argued in numerous cases that civil disobedience activities have not harmed but strengthened public interest.

#### Freedom of Information Program:

What do we believe in? The program strives to guarantee the transparency of the activities of public authorities and of the spending of public funds. Citizens can only be active participants of society if they have access to all necessary information – appropriate knowledge is fundamental to freedom of opinion.

What are we proud of? The countless freedom of information lawsuits won at national fora, ensuring transparency of public spending. The HCLU regularly represents investigative journalists to whom access to public data was denied.

#### Freedom of Thought, Conscience and Religion Program:

What do we believe in? This freedom shall protect, on the one side, our most personal decisions, such as those relating to our bodies and beliefs. On the other side, this freedom requires from the state to provide equal opportunities in a fair manner for those who seek to practice their beliefs common with others.

What are we proud of? Both the Constitutional Court and the European Court of Human Rights judged the highly criticized Church Law to be unlawful, based on – among others – the petition of the HCLU. As a consequence the Parliament has been forced to amend the law.

#### HIV/AIDS Program:

What do we believe in? The program strives to ensure equal treatment to people living with HIV/ AIDS, e.g. access to health care services, data protection, etc. The HCLU fights stigma through video campaigns and regular communication on the topic.

What are we proud of? After years of negotiations with the government and a successful petition to the Ombudsman, people living with HIV/AIDS will be able to access required healthcare services outside of the capital as well from 2014.

#### Patients' Rights Program:

What do we believe in? Patients' rights are a special form of human rights. Patients are in a vulnerable situation because of their physical status and the lack of knowledge of medical issues, so their rights must be emphasized.

What are we proud of? We did a lot in order to raise awareness (lot of media presence, campaigns, and leaflets, lectures given to doctors and patients as well) because rights awareness is indispensable to make patients' rights prevail.

#### Political Participatory Rights Program:

What do we believe in? We aim to protect and improve the constitutional guarantees of equal freedom to participate in political decision-making processes. We lay special emphasis on the freedom, equality and secrecy of the vote, as well as on the participation of vulnerable and underprivileged voters. We aim to protect popular sovereignty by ensuring that all -- and only -- those subject to Hungarian law should have an equal right to vote. We empower citizens, especially members of disadvantaged or vulnerable groups to use a wider array of participatory rights and opportunities to influence political decision-making.

What are we proud of? We successfully prevented systematic electoral exclusions in the parliamentary elections of 2014. The online voting registration system originally allowed anyone to fraudulently request absentee ballots on someone else's behalf, so that victims could not vote where they resided and were originally registered to vote. As a result, the new regulations we pressed for decreased the risk of electoral fraud and the consequent exclusion of fraud victims from voting.

#### Roma Program:

What do we believe in? The most chronic human rights issue in Hungary is prejudice, discrimination and bias-motivated violence against Roma people. The program focuses on tackling institutional discrimination through primarily carrying out strategic litigation and legal advocacy activities. The Program also strives to take a stand against prejudice and discrimination by shaping public opinion through different communication activities.

What are we proud of? The active fieldwork conducted in the framework of the program has contributed to building a good relationship with the people mostly affected by discriminative practices, a unique characteristic of watchdog organizations. These ties enabled us to react in a timely manner to the patrolling of a town, Gyöngyöspata by extremist paramilitary groups in 2011. The HCLU played crucial role in reporting about the case and representing local Roma victims of hate crimes. In the aftermath of the events, the HCLU launched an actiopopularis lawsuit against the Police because of its inactivity

against the extremists and in parallel, its disproportionately severe fining practice against the local Roma. The first instance Court acknowledged on 17 September 2015 discrimination by the police against Roma citizens in Gyöngyöspata. The Court ruled that the Police violated the right to equal treatment of the local Roma inhabitants by not protecting them from the extremists. The judgment also found discrimination against Roma in police fining practices.

#### Self-Determination Program:

What do we believe in? Everybody has the right to decide about essential questions regarding their private life, whether or not to have a child, the circumstances of giving birth and end of life decisions.

What are we proud of? The Program applied a comprehensive media and legal advocacy campaign leading to a legislative amendment enabling single women to access artificial insemination services.

#### Video advocacy Program:

The HCLU launched its ground-breaking, immensely popular and highly recognized video advocacy program called the HCLU Film in 2007, with the main goal of educating the public, shaping public opinion and presenting key human rights issues in an easily digestible fashion. The program has produced more than 500 short films, initially in the field of drug policy, but recently more and more videos have been shot on other aspects of the HCLU's work. Three feature length documentaries were produced for the Roma and Disability Rights programs. Paired with the HCLU's other activities, video advocacy has proven to be a very effective tool.

What are we proud of? In 2010 the HCLU successfully brought to light an especially distasteful corruption case – the campaign was based on a video call to citizens to request answers from the government to uncomfortable questions. The contested investment - which was also declared wasteful by the Ministry of Finance - was eventually scrapped. Our film, Room in the 8th district has reached more than 127.000 viewers. We also held numerous video advocacy and media production trainings for NGOs in Hungary and activists from all around the world.

**BEST PRACTISES** (The specific (resulting from the organization's experience) examples of good practices of interaction, collaboration between the Think Tank and the Government.)

In the past few years, unfortunately the communication between HCLU and the state/state institutions has deteriorated a lot. We've have been always viewed as some kind of enemy to the state and this got worse recently. There is some cooperation between institutions and specific programs but it is not significant. We are trying to work on our communications without losing our confrontational style.

### **Some examples**

- **Drug Policy Program:** On 1st June 2016 we organized a one-day conference on the medical use of cannabis with professionals and stakeholders of the field, including Hungarian experts from state institutions who accepted our invitation and researchers, physicians, drug policy experts and patients' rights activists. It was the very first step in Hungary for implementing this type of medical treatment and it fostered a lot of discussions which we will continue.
- **Disability Rights Program:** Research on de-institutionalisation and the utilization of EU funds in the light of the UN Convention. The research focused on the right to community living of people with mental disabilities, with autism and with psychiatric diagnosis living in mental health institutions with high residential numbers, and it was based on Article 19 of the UN Convention.
- **Patients' Rights and Self-Determination Program:** In April 2015 we conducted a survey never previously conducted in Hungary: we requested information from a total of 65 health care institutions with obstetrics and paediatric departments. Our goal with the "I'm with My Child!" initiative was to gain, through freedom of information requests, a comprehensive understanding of the situation of children born or treated in hospitals and their parents, and to promote the realization of their right to maintain contact by presenting good practices, providing information for parents, and developing a set of professional recommendations. The campaign runs until the end of 2016.
- **Roma Program:** HCLU and NEKI turned to the Commissioner of Fundamental Rights back in March 2014, in relation to the police raids on the residents of segregated Miskolc communities that were coordinated by the Local Governmental Law Enforcement Unit of Miskolc. Then, HCLU called for an investigation by the Ombudsman (who represents the state) into the eviction practices of the local authorities of Miskolc affecting those living in segregated Roma

communities; the modification of the local housing regulations with the intention of “removing” the Roma; and the “exclusion measures” that were introduced in some surrounding local communities in response to the move. The report of the Ombudsman published in June 2015 identified serious abuses of fundamental rights in all the areas mentioned above. The Commissioner of Fundamental Rights ruled that all these regulations and practices violate the fundamental rights of those living in extreme poverty, the majority of whom are Roma.

### **PROBLEMS AND BARRIERS**

(Challenges and difficult experiences of your Think Tank in its relations with the Government. What do you see as specific problems? Whether and what are the barriers to collaboration and communication?)

Our attitude towards governmental institutions is confrontational and we don't intend to change this fundamentally. This is due to the fact that we try to control these institutions and their practices. This led/leads to the isolation of HCLU. They don't communicate with us, and don't take into account our suggestions. However, in case our strategic goal can be reached without suing an institution, we try to manage it that way. In the future we do our best to try to be more personal with the institutions we use for our purposes and reach them through less formal channels.

### **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

(The key resources of the organization (eg. staff, experts, proven work methods, tools, partnerships. Any specific cooperation possibilities?)

#### **Organizational structure**

The HCLU is led by Executive Director, Ms. Stefania Kapronczay and Director of Programs, Mr. Mate Daniel Szabo. They share the responsibility of overseeing the legal work of the HCLU's programs, however, the Executive Director is solely responsible for operations of the organization. The Executive Committee is responsible for strategic decisions and the Board of Supervisors is responsible for the independent review of the HCLU finances. The HCLU's daily operations are run by a staff of 30: heads of programs, program officers, a communications officer, a video advocacy team, attorneys, administrative and fundraising staff. The organization also has a strong and active volunteer base with close to 100 members.

**International partners**

- INCLO – International Network of Civil Liberties Organizations
- Initiative for Health Foundation, APDES – Portugal, Romanian Harm Reduction Network, Re Generation – Serbia
- FEANTSA
- European Aids Treatment Group
- AIDS Action Europe
- European Roma Rights Centre
- Ligue des Droits de l’Homme
- European Active Citizenship Network
- Mental Health Europe
- Eurasian Harm Reduction Network
- Anti-Defamation League
- IFEX
- Media Legal Defence Initiative

**OTHER INFORMATION**

Please provide any other information that does not fit into above categories and is important.

Please provide also any other materials that you think might be of interest.

## Projects of the Hungarian Civil Liberties Union

**PROJECT TITLE:**

PolitiKuss! (Politicians Shut Up) Campaign for a Freer Public Discourse

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)

Campaign

**NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT**

(Contact information, website, person responsible)

<http://politikuss.tasz.hu/>

DalmaDojcsak [ddalma@tasz.hu](mailto:ddalma@tasz.hu)

**PROJECT DESCRIPTION** (please be concise, max 3000 characters)

“It takes courage to criticize politicians in today’s Hungary.” This was the slogan with which we launched our PolitiKuss (Politicians Shut Up) campaign for breaking down legal barriers against criticizing politicians. Perhaps the scariest thing that the campaign drew attention to was the degree of disadvantage facing those who wanted to stand up against injustices in the countryside. We presented this through the examples of four of our clients who had raised their voices against the abuse of power as experienced in their environment, and were subject to legal retaliation as a result.

Among them, the case of MáriaSomogyi is outstanding. The local council and mayor of Tata initiated both criminal and civil proceedings against her because of a single share on Facebook. During the campaign we published videos about cases we were involved in on our Facebook page that received tens of thousands of views; got our followers to send hundreds of letters to Members of Parliament; organized a street action whereby passers-by had the opportunity to state their views about politicians; and after five years we were back in the National Assembly, where the Committee of Justice discussed and rejected the bill we had drafted for the campaign. In addition, through a successful crowdfunding campaign we managed to reimburse the costs of MáriaSomogyi’s legal procedure. All relevant information about the campaign is available at [politikuss.tasz.hu](http://politikuss.tasz.hu). We produced 9 videos for the campaign that documented the stories of HCLU’s clients, the street action related to the

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campaign, the crowdfunding campaign for MáriaSomogyi, the call for the mailing action, and the meeting of the Committee of Justice.

## REPORT – PUBLICATION – POLICY PAPER?

Policy

paper: <https://drive.google.com/file/d/0BzYhH7oyvBjMVFFDbWp6U2xFTEk/edit>

Recommendation:

<https://drive.google.com/file/d/0BzYhH7oyvBjMSHVSeE52dVJ4VFE/view>

## PROJECT TITLE:

I'm with My Child! Cooperation with doctors for a child-friendly health care

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)

Campaign, Research

## NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT

(Contact information, website, person responsible)

<http://gyerekkelvagyok.tasz.hu/>

FernezelyiBorbala[fernezelyi.bori@tasz.hu](mailto:fernezelyi.bori@tasz.hu)

AsbothMarton[asboth.marton@tasz.hu](mailto:asboth.marton@tasz.hu)

## PROJECT DESCRIPTION (please be concise, max 3000 characters)

“Dear parents, please do leave now!” – these words are uttered so many times while a child is crying bitterly in the midst of a cold hospital corridor. Everybody has a story, or remembers what happened to them during their childhood, when they were in hospital, or experienced one of the most difficult life situations as parents when they took their sick child to a doctor who proclaimed the “judgment”: the child must be hospitalized, but without the parents.

HCLU’s “I’m with My Child!” campaign was launched in April 2015 with the objective to have all hospitals allow parents to stay with their sick children, even for several nights. We conducted a unique survey in the circle of health institutions in Hungary: a total of 64 freedom of information requests were filed with hospitals that have obstetrics and paediatric departments. Based on the

data collected, we created a public database, which can serve as a useful source of orientation for parents, and as a basis for recommendations by professionals for professionals. After summarizing the lessons from the data collection process and personal surveys conducted by our staff members, in cooperation with doctors and parents we formulated professional recommendations for the country's public health leadership. This will ensure the formulated recommendations will be implemented at as many places as possible, and to the greatest extent possible, thereby serving the interests of children as much as they can.

On our related website we provide information on the patient visiting rules of certain hospitals, a downloadable version of our brochure titled "10 things you need to know if your child is hospitalized", as well as our video reports made in hospitals.

The research was repeated in the end of 2015 and the website was updated with the recently received information.

### **REPORT – PUBLICATION – POLICY PAPER?**

We have worked out a proposal package which was sent to the hospitals and to the authorities as well.

[http://tasz.hu/files/tasz/imce/gyerekkelvagyok\\_javaslatcsomag\\_2016.pdf](http://tasz.hu/files/tasz/imce/gyerekkelvagyok_javaslatcsomag_2016.pdf)

### **PROJECT TITLE:**

4th point - Your Faith, Your Concern

### **TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)

Petition campaign

### **NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT**

(Contact information, website, person responsible)

<http://negyedikpont.tasz.hu/>

<http://www.liberties.eu/en/campaigns/your-faith-your-case-hclu-church-law-campaign>

SzabolcsHegy [hegyi.szabolcs@tasz.hu](mailto:hegyi.szabolcs@tasz.hu)

**PROJECT DESCRIPTION** (please be concise, max 3000 characters)

HCLU launches campaign for the proper amendment to Hungary's Church Act as the planned amendment of the law does not ensure remedies to human rights violations identified by the Hungarian Constitutional Court and the European Court of Human Rights.

The aim of our campaign is to raise the attention of the national and international public to these issues. The central element of our campaign is a petition, through which we want to raise the largest possible support for our campaign.

Many churches in Hungary were arbitrarily deprived of their legal status under the country's [Church Act of 2012](#). Nine of these churches brought a freedom of religion complaint to the European Court of Human Rights. The court [ruled in their favour](#) in April 2014 and confirmed this ruling in September 2014, when it rejected the government's appeal. The government then had to change the act to make it conform to national and European laws, but the amendment proposed by the Orbán government does not achieve this.

In relation to the Hungarian Church Act, the Hungarian Civil Liberties Union has launched a [website](#) with a petition intended as a warning: the planned amendment of the law [fails to fix the human rights violations](#) that were identified by both the Hungarian Constitutional Court and the European Court of Human Rights. In the organization's assessment, the government's proposed amendment to the act still violates domestic and EU law in several ways.

**REPORT – PUBLICATION – POLICY PAPER?**

Policy paper: <http://negyedikpont.tasz.hu/egy-szabad-allam-egyhaztorvenye/>

Extract in 12 points: <http://negyedikpont.tasz.hu/12pont/>

## The Hungarian Helsinki Committee

Name of the organization: The Hungarian Helsinki Committee

Year of establishment: 1989

CEO: Márta PARDAVI, AndrásKristóf KÁDÁR

Contact information: [www.helsinki.hu](http://www.helsinki.hu)

(Website, Facebook, twitter, etc.)

Mission: The Hungarian Helsinki Committee is a public benefit human rights organization that protects human dignity through legal and public activities. It provides help to refugees, detainees and victims of law enforcement violence.

Key areas of activity and expertise:

- Protection of the rule of law
- Protection of the rights of refugees
- Monitoring law enforcement activities
- Protection of the rights of detainees

The organization has a staff of more than twenty professionals. Its members include lawyers, attorneys, medical doctors, economists, sociologists and journalists as well. In the early years it only focused on free legal assistance and representation while today its portfolio also includes research and professional training activities spanning through a wide range of fields.

## ACTIVITIES AND PROJECTS

Out of the four main areas of activity and expertise mentioned above, below is a description of what HHC does in the field of the protection of the rights of refugees and detainees. The list of activities is not exhaustive but certainly characteristic.

### Refugees and migrants:

- The HHC reviews and analyses Hungarian legal rules that include provisions on refugees and migrants, e.g. the Asylum Act, the Act on State Border. It provides a summary of their implementation and practical consequences, e.g. in the case of the latest amendments of the two above-mentioned acts (5 July 2016), it warns of the unprecedented amount of reports of about violence committed at and around the Hungarian-Serbian border against foreigners.

- It provides statistical reports about asylum figures, namely the number of asylum seekers and irregular migrants, their country of origin, their accommodation in open or closed reception centres, the number of Dublin returns to Hungary, the number of returns from Hungary to Serbia, the number of persons who were tried at court and convicted for the prohibited crossing of the border closure (fence). <http://www.helsinki.hu/wp-content/uploads/HHC-Hungary-asylum-figures-1-July-2016.pdf>
- It monitors the processes of naturalisation of refugees and stateless persons in Hungary. In its latest [analysis](#) of the legal framework, statistics and case studies, it claims that Hungary is far from sufficiently fulfilling its obligations, especially as refugees and stateless persons have actually a much *lower* chance to successfully naturalise than other long-term foreign residents. Beyond its immediate research objective, the study provides a methodological tool to practitioners and academics in other areas of the world to conduct similar research, thus contributing to global awareness-raising about statelessness.
- It offers a reporting form for refugees who experience violence by the authorities at the Hungarian-Serbian border. The [“Reporting form on abuses committed at the Hungarian border”](#) can be downloaded on the HHC’s website or can be filled in online.
- In cooperation with the UNHCR it publishes [leaflets](#) of basic information for refugees about their rights, the types of asylum procedures and the possible decisions, the conditions of family reunification. These leaflets are written in an easily comprehensible language in the mother tongue of the asylum seekers, e.g. Arabic, Pashtu, Somali, Kurdish.
- It prepares training manuals for asylum professionals, e.g. *Credibility Assessment in Asylum Procedures*, in cooperation with internationally renowned experts and the UNHCR.
- Based on a tripartite cooperation agreement in 2006 the National Police Headquarters, the UNHCR Regional Representation in Central Europe and the HHC each year present their annual report on border monitoring activities. Each report summarizes the experience gathered on the borders and presents joint recommendations to Hungarian authorities.
- With the support of the UNHCR it developed an online model curriculum called *Refugee Law Reader* for the study of refugee law by professionals (lawyers, advocates, professors, students).
- It published a [guide](#) on how to establish Refugee Law Clinics. A

Refugee Law Clinic is a voluntary organization run by law students, providing free legal advice to asylum-seekers and refugees. The clinic is run under the supervision of university professors and practicing lawyers in this field.

- It reviews national and international refugee law cases (the Hungarian courts, the ECHR, the ECJ) and reports on them.
- With the support of the UNHCR it has developed a training manual for the Police Academy summarizing the human rights of migrants and asylum seekers.

#### Law enforcement and rights of detainees

- Represents victims of ill-treatment by law enforcement officials before the Hungarian courts and the ECHR.
- Campaigns for house arrest as opposed to pre-trial detention.
- Campaigns against police ID-checks.
- Participates in training practitioners (defence lawyers) with respect to the fundamental rights of detainees in the framework of the Practitioner Training on Roadmap Directives project.
- Monitors changes in criminal legislation: e.g. the criminalisation of homelessness in 2013, the government proposal on unlimited pre-trial detention, the introduction of the “three strikes” rule into the Criminal Code, the new petty offence law and makes the necessary and available steps to initiate the review of challenged provisions and laws.
- Monitors the judicial practice on hate crimes (hate crimes against the Roma, Jewish people, foreigners and refugees, LGBT people)
- Organises civil-police consultation to bring closer the police and the community and thus to enhance trust, more effective police work and safer community. For its achievements it received the Sozial Marie award, see [http://helsinki.hu/wp-content/uploads/HHC\\_SozialMarie2011\\_Project-description\\_English\\_1.pdf](http://helsinki.hu/wp-content/uploads/HHC_SozialMarie2011_Project-description_English_1.pdf)
- regularly reports to international organisations, e.g. Council of Europe’s Commissioner for HR, UN Working Group on Arbitrary Detention, UN Human Rights Committee, European Committee for the Prevention of Torture, UN Committee Against Torture, European Commission Against Racism and Intolerance, Universal Periodic Review of the UN,

Framework Convention for the Protection of National Minorities, UN  
Independent Expert on Minority Issues

### BEST PRACTISES

The specific (resulting from the organization's experience) examples of good practices of interaction, collaboration between the Think Tank and the Government.

### PROBLEMS AND BARRIERS

Challenges and difficult experiences of your Think Tank in its relations with the Government. What do you see as specific problems? Whether and what are the barriers to collaboration and communication?

### RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION

The key resources of the organization (eg. staff, experts, proven work methods, tools, partnerships).

Any specific cooperation possibilities?

### OTHER INFORMATION

Please provide any other information that does not fit into above categories and is important.

Please provide also any other materials that you think might be of interest.

## Projects of the Hungarian Helsinki Committee

*HHC refugee projects*

### CREDO

Aim of the project: The overall goal of the CREDO project is to contribute to better structured, objective, high-quality and protection-oriented credibility assessment practices in asylum procedures conducted by EU Member States.

Context of the project: A significant proportion of asylum claims are rejected in the EU on credibility grounds and "credibility assessment" has become an indispensable element of the majority of asylum procedures. Yet, no common concept exists about what "credibility" means in an asylum context and EU law has only set basic principles in this respect. Experience shows that credibility

assessment is often conducted in a non-structured manner (often based on “gut feelings”) and persisting erroneous or unscientific concepts distort this process in various ways.

Methods: The overall goal of the CREDO project is to contribute to better structured, objective, high-quality and protection-oriented credibility assessment practices in asylum procedures conducted by EU Member States, as well as to promote a harmonized approach, reflecting relevant provisions in EU law and international standards. Based on identified good practices, this goal is to be achieved through several methods:

- a) by identifying exemplary practices and shortcomings in the application of credibility-related guidance in EU Member States’ asylum practices,
- b) by establishing and promoting a firm basis for multidisciplinary training on credibility assessment (including guidance, curriculum and methodology) that is accessible to all relevant target groups, and
- c) by raising awareness about the necessity for structured and objective credibility assessment among national decision makers and EU policy-makers.

Project partners: The project was coordinated by the Hungarian Helsinki Committee and implemented together with its partners – UNHCR Bureau for Europe, the International Association of Refugee Law Judges and Asylum Aid (UK). The project started in September 2011 and ran for 18 months. It was supported by the European Refugee Fund Community Actions.

Results and published papers: In the framework of the project, the following materials were published:

- Multidisciplinary [Training Manual](#) on Credibility Assessment in Asylum Procedures;
- [Report](#) on EU state practices of credibility assessment in asylum claims;
- Judicial Guidance [Paper](#) on credibility assessment in asylum cases.

The project was continued by the "Building Credibility" project below.

## **BUILDING CREDIBILITY**

Aim of the project: The overall goal of the "Building Credibility" project is to provide access for all stakeholders in the EU asylum sector to know-how on structured, objective and protection-oriented credibility assessment.

Context: A significant proportion of asylum claims are rejected in the EU on credibility grounds and “credibility assessment” has become an indispensable element of the majority of asylum procedures. Yet, no common concept exists about what “credibility” means in an asylum context and EU law has only set

basic principles in this respect. Experience shows that credibility assessment is often conducted in a non-structured manner (often based on “gut feelings”) and persisting erroneous or unscientific concepts distort this process in various ways.

Methods: The overall goal of the “Building Credibility” project is to provide access for all stakeholders in the EU asylum sector to know-how on structured, objective and protection-oriented credibility assessment. Based on continuing the work done in this area, the goal is to be achieved through several methods:

- Research state practices, and identify good practices, in the assessment of credibility in child asylum claims;
- Develop and promote an evidence-based methodology for credibility assessment in claims related to children, gender, and sexual orientation and gender identity;
- Enable access for relevant stakeholders (state authorities, judiciary, academics, legal counsellors, etc.) to tailored training; and knowledge on credibility assessment, through sustainable and cost-effective continuous knowledge transfer.

Partners: The project was coordinated by the Hungarian Helsinki Committee and implemented together with its partners – UNHCR Bureau for Europe, Asylum Aid (UK) and the European Council on Refugees and Exiles (ECRE). The project started in June 2013 and concluded in January 2015. It was co-financed by the European Commission through the Refugee Fund Community Actions.

Results: In the framework of the project the following materials were published:

- [Second volume](#) of the CREDO training manual on credibility assessment;
- [Research](#) on state practices related to credibility assessment in child asylum claims;
- [Summary Conclusions](#) of the “Expert Roundtable on Credibility Assessment in Asylum Procedures” organized together with the United Nations High Commissioner for Refugees (UNHCR).

## **GENSEN**

Aim of the project: The project primarily strives to enhance gender equality and provide additional safeguards for vulnerable asylum-seekers in asylum procedures conducted by European states.

It focuses on the harmonization of the operational implementation of the

European asylum legislation from a gender perspective. The secondary objective of the GENSEN project is to contribute to gender awareness among national stakeholders to ensure that women and LGBT concerns are visible and addressed.

Methods: GENSEN's main activities include: a nine-country comparative research; national workshops to facilitate the exchange of information, ideas, and effective practice methods; and regional training sessions focused on integrating a gender perspective into asylum procedure.

Results: a comparative report [Gender-related asylum claims in Europe](#) providing an analysis of how gender-related asylum claims are handled in nine different EU member states; executive summary ([here](#)), and a report on Hungary ([here](#)).

Partners and duration: The lead NGO on the project is the Comisión Española de Ayuda al Refugiado (Spain). Other partner NGOs include France Terre d'Asile (France), Asylum Aid (United Kingdom), Consiglieri Italiano per i Rifugiati (Italy) and Hungarian Helsinki Committee. The project began October 2010 and was completed in May 2012.

Funded by: European Commission through the [European Refugee Fund](#)

### *HHC detention projects*

#### **Improving the fairness of disciplinary procedures in penitentiaries**

Aim of the project: Project aimed for the research of disciplinary procedures in cases of detainees and for drafting proposals to change the legislative framework and the existing practice in order to strengthen the fairness of disciplinary procedures.

Context: The Hungarian system of penitentiary disciplinary procedures is dysfunctional due to systemic and procedural reasons, as suggested by the HHC's monitoring and project experiences and information provided by lawyers as well as penitentiary staff. The rules on the disciplinary liability of the detainees are insufficient and do not ensure in practice the procedural rights of prisoners charged with a disciplinary offense. This is particularly worrying because disciplinary measures are taken into consideration by penitentiary judges when making parole decisions.

Methods: In the framework of the project, the HHC conducted in-depth analysis of international standards and the Hungarian legal regulation applicable to disciplinary procedures in penitentiaries, including the local prison rules and regulations.

Upon the permission of and in cooperation with the National Penitentiary Headquarters, a questionnaire-based case-file research was conducted in four penitentiary institutions into 120 disciplinary procedures, along with interviews with prison staff and penitentiary judges. Defence lawyers who entered into contract with the HHC provided legal representation to detainees under a disciplinary procedure in order to gain a deeper insight into the practice of disciplinary procedures.

Results: Experiences gained by the research were presented at a round-table discussion held with the participation of the representatives of the National Penitentiary Headquarters, the penitentiary institutions involved in the project, the Supreme Court (Curia), the Office of the Chief Prosecutor, the Hungarian Bar Association and the National Institute of Criminology. The study summarizing the outcome and the conclusions of the research was finalized with consideration to the suggestions which the HHC had received at the round-table discussion.

The study is available in Hungarian [here](#). The executive summary of the study in English is available [here](#).

The project ran from 2012 to 2014 and it was supported by the Open Society Foundations.

### **The practice of pre-trial detention**

Aim of the project: to provide a unique evidence-base about how pre-trial detention is being used in practice in 10 Member States of the European Union.

Methods: In the framework of the project, the HHC gathered data on the domestic pre-trial decision-making process and the use of alternatives through surveying of over 30 defence practitioners, monitoring detention hearings, reviewing the case files of 116 criminal cases at seven research sites, and conducting interviews with 5 prosecutors and 10 judges.

Partners: The HHC has been an implementing partner organization of [Fair Trials](#) and the project was funded by the Criminal Justice Programme of the European Commission.

Results: The country-specific report on the use of pre-trial detention in Hungary, comparing Hungarian practice with domestic law and international standards, is available here in English and in Hungarian:

- [The Practice of Pre-Trial Detention: Monitoring Alternatives and Judicial Decision-Making](#)
- [Azelőzetesletartóztatásgyakorlata: azalternatívkenyszerintézkedésekés](#)

### [a bíróságokhozatalvizsgálata](#)

Country reports concerning the other Member States participating in the project are available on the [website](#) of Fair Trials. The regional report produced by Fair Trials on the results of the international research project, featuring also recommendations in relation to pre-trial detention, is available here:

- [A Measure of Last Resort? The practice of pre-trial detention decision making in the EU](#)

A summary document on the key findings of the study “A Measure of Last Resort?” is available [here](#). A short film produced in the framework of the project, giving a voice to three people from across Europe who have been affected by the unjustified and excessive use of pre-trial detention may be viewed [here](#).

## Transparency International Hungary

*Name of the organization:* Transparency International Hungary

*Year of establishment:* 2006

*CEO:* József Péter Martin

*Contact information:*

Website: [www.transparency.hu](http://www.transparency.hu)

Twitter: [twitter.com/Transparency\\_HU](https://twitter.com/Transparency_HU)

Facebook: [facebook.com/TransparencyInternationalMagyarország](https://facebook.com/TransparencyInternationalMagyarország)

Blog(s): [korrupcio.blog.hu](http://korrupcio.blog.hu)

Youtube channel: [youtube.com/user/TransparencyHU](https://youtube.com/user/TransparencyHU)

Other social media: [facebook.com/kepmutatas](https://facebook.com/kepmutatas);

[facebook.com/TransparencyInternationalBazis](https://facebook.com/TransparencyInternationalBazis)

*Mission:* fight against corruption

*Key areas of activity and expertise:* corruption, monitoring legislation, judiciary, business sector, public procurement, whistleblower protection, party and campaign financing, freedom of information, local governments,

## ACTIVITIES AND PROJECTS

### Legal support to victims of corruption and legal counseling in individual corruption cases

Legal assistance to victims of corruption is one of the core activities of TI Hungary. Our regular legal aid service project, through which we actively helped victims of corruption and raised awareness to the many dangers that corruption poses to the average Hungarian citizen, has reached an end due to lack of funding. Currently we are working towards finding new solutions to continue the support given to those in dire need. Legal assistance for individual corruption cases of strategic importance is planned to be provided in the future as well, using in-house legal resources.

Legal counselling and support in individual cases, an auxiliary route to promote access to justice in TI-H's perception, shall be offered to clients who, for any reason, did not receive a good quality service from government anti-corruption institutions or the judiciary. However, as TI-H is neither a law-

enforcement agency, nor is it part of the judicial system, counselling shall focus on enhancing access to justice and helping in bringing the corrupt before court.

#### Significant lawsuits, legal cases in 2015-2016

- TI deals with a growing number of individual corruption cases
- We identify and uncover the corrupt spending of public funds.
- We cooperate with investigative journalists in lawsuits of public data access.
  - Since 2013 we initiated 12 lawsuits and won almost all of them.
- We successfully sued the Hungarian Central Bank and its foundations in 2015, and prevented public funds from „losing their nature as public funds”.
- In 2016 we focus on the suspicious selling of the MKB Bank and the dubious public procurements of the 5th district.
- TI-H draws attention to the cases when public prosecution – standing under direct government influence – „glances aside” and avoids impeachment.
- However, TI-H does not have investigative authority, therefore it would be an unrealistic expectation to fully reveal and prove cases of (governmental) corruption.

#### Integrity Pacts

Integrity Pact is a legal tool developed by TI to monitor public procurements. In 2015 the European Commission launched a 4-year long pilot project (2016-2019) to apply integrity pacts in projects supported by EU sources. In this framework we launched the monitoring project of the construction of the M6 motorway, and another big construction project is to be selected in the near future.

#### Monitoring of legislative changes and the enforcement of legislative tools

TI-H continuously monitors the implementation and enforcement of existing legislative tools as well as new drafts and pieces which may further weaken the efficiency of the anti-corruption framework. In line with these principles did TI-H issue an open opinion about the new anti-corruption strategy and the same reasons our advocacy for the revocation of laws that effectively hurdle the accessibility of public interest information. TI-H also addresses implementing bodies to advocate for the issuance of guidelines to improve the implementation of anti-corruption laws.

The first semester of 2016 has been earmarked by the government's renewed attempts to further curtail accessibility of public interest information. First, laws were introduced to the Parliament in February to expand secrecy over business operations of the National Postal Service and the Central Bank of Hungary. In a separate legislation the Parliament exempted the Central Bank's foundations from public transparency legislations. TI-Hungary has grounded reasons to believe that these legislations are to respond to civil society groups' and journalists' successful litigations and repeated court rulings disfavouring the government arguments. More specifically, the government's attempt to send Central Bank foundations' expenses into the shade coincided with TI-Hungary's major win in court against the foundations, again a solid ground to suppose that these legislations were tailor made ones. The legislations were not only arbitrarily narrowing the avenue to public information, but their adoption was also a parody of Parliament, i.e. they have been voted without any ex ante public or political debate and the adoption took place at breakneck speed.

Lastly, in May/June 2016 the Fidesz majority in Parliament voted into law a proposal introduced by the government to expand business secrecy over the business operations and transactions of all state owned enterprises and to grant them new grounds of refusal to circumvent the obligation to respond public interest data requests.

TI-Hungary has been actively and overtly opposing these legislations in open letters, blog posts, Facebook posts, statements and position papers. TI-Hungary's lawyer gave numerous interviews on TV and in radio to share the organisation's opinion and arguments to the widest possible audience and viewership in an easily digestible language.

### EU Funds Watch

TI Hungary is currently running a 21-month monitoring and awareness raising project funded by OSIFE that aims at mobilizing citizens around the country to assess projects financed by EU funds and thus create a map of corrupt and potentially unnecessary investments, worst of which to be further investigated by TI Hungary. The project's goal is to make the distribution of EU funds more transparent in Hungary through a bottom-up monitoring approach.

### Government Anti-corruption Strategy + monitoring

Even though state capture and a high level of systemic corruption in Hungary are not conducive to a relaxed and balanced discourse with the government, TI-H did not give its advocacy efforts to promote transparency in public life. This is why we chose to enter into a dialogue with the government's newly forming anti-corruption body and issued a detailed opinionating of the new draft anti-corruption strategy. TI-H also keeps monitoring the government's moves in the Open Government Partnership (OGP) process, an ideal terrain for civil society groups to formulate their criticism vis-à-vis governments', as these latter ones are obliged by the OGP rules to involve NGOs in the planning of their respective action plans.

Besides commenting on and opinionating government anti-corruption documents, TI-H actively uses freedom of information tools to promote its advocacy goals and to monitor public finances and government transparency. Either on its own or in alliance with investigative journalists, TI-H regularly files freedom of information requests to public bodies or state owned enterprises. In cases of strategic significance, TI-H takes freedom of information requests with no proper answer from the government to court.

#### Critical Areas of Undue Influence - (revolving door phenomenon, access to public interest information, assets and interest declaration, political financing)

The TI research carried out in the context of the project "Lifting the Lid on Lobbying" (LLL) in 2014 has shown that across the EU, interactions between public officials and vested interests are largely opaque, and the few transparency measures that do exist are often poorly designed and rarely complied with. The risks of undue influence, corruption and state capture remain high, therefore in the upcoming years TI Hungary intends to further address regulatory and adoption gaps and make recommendations to improve the quality of laws in the field of critical importance of undue influence: 1. revolving doors phenomenon, 2. access to public interest information, 3. assets and interest declarations, 4. protection of whistleblowers and 5. political finance. TI-H also plans to engage in public campaign to monitor and address undue influence risks.

#### Prevention and Detection of Corrupt Procurements through Analysis, Redflags and Follow Up

Another project, started in 2014 and running through 2016, aims to enhance the transparency of public procurements in Hungary and foster the fight against corrupt procurements in the EU through providing practical solutions to monitor procurement processes by the widest circle of stakeholders and catch fraud risks at an early stage of the process. The project focuses on the development of a new risk assessment methodology that counters guided notices and the creation of an innovative, interactive online monitoring tool that could be used in any EU states.

### Transparency and Disclosure Requirements for State Owned Enterprises

In a 3-year major research, advocacy and monitoring project targeting transparency of state owned enterprises, we are advocating for a more effective legal framework in order to have more clearly defined disclosure regulations for state owned enterprises based on our research findings.

#### **BEST PRACTISES**

The specific (resulting from the organization's experience) examples of good practices of interaction, collaboration between the Think Tank and the Government.

The recently launched Integrity Pact project is a good example of interacting with the government. The Ministry of National Development, Deputy State Secretariat for Environment and Energy Efficiency Operational Programmes is aiming to achieve the highest standards of integrity and transparency with regard to the construction of the M6 motorway between Bóly-Ivándárda and the country-border. For this purpose, it intends to use the concept developed by Transparency International for an Integrity Pact (IP) for all applicants, bidders and contractors when awarding and executing the relevant procurement processes and activities in the project.

#### **PROBLEMS AND BARRIERS**

Challenges and difficult experiences of your Think Tank in its relations with the Government. What do you see as specific problems? Whether and what are the barriers to collaboration and communication?

A general problem of cooperation with the government is the reputational risk that threatens Transparency International Hungary. Since corruption is

widespread in the country and the government is in many cases not the prohibitor, but the source of corruption, it is indeed hazardous to undertake the responsibility of cooperation. It might result in situations where we contribute to the development of a program (like the National Anti-Corruption Program) that finally does not come to effect. It also increases the chance of legitimizing certain actions of the government that we do not agree with or find especially counteractive to transparency and integrity.

### **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

The key resources of the organization (eg. staff, experts, proven work methods, tools, partnerships).

Any specific cooperation possibilities?

Transparency International Hungary has 11 staff members, 9 full-time, 2 part-time employees. Our Board of Trustees and our Board of Supervisors have 3-3 members, all of them experts of the fields of economy and corruption. We have an Advisory Board consisting of 6 members. We base our operation on our international and national strategies, our indices are developed according to internationally accepted standards. We publish professionally well-grounded reports and policy papers, and we are an authentic point of reference in our field of expertise. We cooperate with many different stakeholders coming from the business and the public sectors as well. Concerning the cooperation with the government, the Integrity Pact project is carried out in collaboration with several ministries and currently this is the only project where we directly cooperate with the government. However, government officials are regularly invited to our events, conferences as guest speakers or participants.

### **OTHER INFORMATION**

Please provide any other information that does not fit into above categories and is important.

Please provide also any other materials that you think might be of interest.

## Projects of Transparency International Hungary

**NAME of the PROJECT: Central Bank's foundations**

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)  
**freedom of information litigations**

**NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT**  
(Contact information, website, person responsible)

**Transparency International Hungary, [www.transparency.hu](http://www.transparency.hu) Miklós Ligeti,**  
**legal director**

**PROJECT DESCRIPTION** (please be concise, max 3000 characters)

The most significant corruption scandal of 2016's first semester is the irregular and unlawful allocation of public funds by the Central Bank of Hungary to six foundations it has formed throughout the years 2013 and 2014. The foundations have been endowed with assets amounting to HUF 267 Billion or approx. USD 1,1 Billion. These more than generous endowments resulted from the Central Bank's profits. In TI-Hungary's judgement, existing legislations of Hungary do not entitle the Central Bank leadership to this way allocate the profits generated by monetary policy and exchange rate tools. As TI-Hungary suspected that the Central Bank's foundations illicitly used public assets, in cooperation with investigative journalists, we launched in 2015 a series of freedom of information litigations to judicially compel the foundations to reveal their expenses. The courts' final binding judgements awarded in early 2016 in the cases initiated by TI Hungary ordered the foundations to open up their spending track records. In an attempt to prevent scandalous expenses from becoming public, the government's majority in Parliament adopted a legislation at breakneck speed to expand secrecy over Central Bank Foundations' business operations. Critics, *inter alia* TI Hungary, opposed this legislation for its undeniable intention to hinder accessibility of public interest information. The president of Hungary referred the legislation to the Constitutional Court, which ruled that the law was in contradiction with Hungary's Fundamental Law. After the government's aborted attempt, law courts finally ordered that Central Bank Foundations reveal the information

requested from them. As a result of the successful litigations, it turned out that the Central Bank Foundations, besides investing some HUF170 Billion or USD600 Million in government bonds, which in itself contradicts the ban of monetary financing, inordinately and partly unlawfully allocated public assets to discretionarily selected beneficiaries. Though formally independent from the Central Bank of Hungary, the foundations leadership to a large extent overlapped with the endowing bank's leadership, as a consequence of which the Central Bank exerted direct influence over the foundations' operations. With regard to the lack of functional autonomy of the foundations and taking into account the Central Bank's direct influence over their operations, TI Hungary judged that the foundations functioned as special purpose vehicles aiming to spend public money without public scrutiny, and to circumvent Parliamentary oversight, thus resulting in off-budget spending. In TI-Hungary's conclusions, what the Central Bank of Hungary did through these foundations can be described as misappropriation of public funds and abuse of public authority. For all these conducts, TI Hungary, in an official complaint, reported the Central Bank's foundations to the Prosecutor General and to the Chief of Police.

As indicated above, the government's majority in Parliament attempted to hide these foundations' expenses and transactions through a dubiously adopted legislation, which provoked harsh criticism. TI-Hungary advocated for the annulment of this legislation and in the frame of these efforts, invited the president of Hungary to refer the law to Constitutional Court for constitutional oversight. As soon as this happened, TI-Hungary, in an open amicus curiae letter compiled legal arguments to sustain the opinion that this legislation was against Hungary's Fundamental Law. Not separately from TI-Hungary's repeated efforts, and from the pressure coming also from different other civil society organisations, the Constitutional Court annulled the most destructive provisions of the law.

### **REPORT – PUBLICATION – POLICY PAPER?**

- The report, if published, or Policy Paper: a few words about what is in the publication, the main elements of the report/policy paper (or frame contents, but no detailed table of contents, eventually scan of the report cover)
- Address URL, if it is published online.
- The name and contact of the project coordinator/ the author of the final report, if known.

[http://transparency.hu/LEX\\_PALLAS\\_ATHENE\\_ALAPITVANYOK\\_-\\_tiltakozunk\\_az\\_informacioszabadsag\\_leszalamizasa\\_ellen\\_?bind\\_info=index&bind\\_id=0](http://transparency.hu/LEX_PALLAS_ATHENE_ALAPITVANYOK_-_tiltakozunk_az_informacioszabadsag_leszalamizasa_ellen_?bind_info=index&bind_id=0)

[http://transparency.hu/Az\\_Alkotmanybirosaghoz\\_fordul\\_a\\_TI\\_Magyarorszag?bind\\_info=index&bind\\_id=0](http://transparency.hu/Az_Alkotmanybirosaghoz_fordul_a_TI_Magyarorszag?bind_info=index&bind_id=0)

[http://transparency.hu/Birosag\\_Megsem\\_vesztette\\_el\\_az\\_MNB\\_alapitvanyanak\\_vagyona\\_a\\_kozpenz-jelleget?bind\\_info=index&bind\\_id=0](http://transparency.hu/Birosag_Megsem_vesztette_el_az_MNB_alapitvanyanak_vagyona_a_kozpenz-jelleget?bind_info=index&bind_id=0)

[http://transparency.hu/A\\_Kozbeszerzesi\\_Hatosag\\_elnokehez\\_fordultunk\\_az\\_MNB\\_alapitvanyok\\_ugyeben?bind\\_info=index&bind\\_id=0](http://transparency.hu/A_Kozbeszerzesi_Hatosag_elnokehez_fordultunk_az_MNB_alapitvanyok_ugyeben?bind_info=index&bind_id=0)

[http://transparency.hu/Kerjuk\\_a\\_KEHIt\\_hogy\\_vizsgalja\\_meg\\_a\\_Pallas\\_Athene\\_alapitvanyok\\_kozpenzhasznalatanak\\_ugyet?bind\\_info=index&bind\\_id=0](http://transparency.hu/Kerjuk_a_KEHIt_hogy_vizsgalja_meg_a_Pallas_Athene_alapitvanyok_kozpenzhasznalatanak_ugyet?bind_info=index&bind_id=0)

## Atlatszo.hu

Name of the organization: atlatszo.hu Investigative Journalism Centre

Year of establishment: 2011

CEO: TamásBodoky (editor-in-chief)

Contact information: <https://english.atlatszo.hu/>, <https://www.facebook.com/AtlatszohuEnglish>, <https://twitter.com/atlatszo>, (Website, Facebook, twitter, etc.)

Mission: atlatszo.hu is a watchdog NGO and investigative journalism outlet to promote transparency, accountability, and freedom of information in Hungary.

Key areas of activity and expertise: as a legal think tank, policy advocacy and litigation in the field of freedom of information and freedom of the press

## ACTIVITIES AND PROJECTS

- monitoring legislation and government practice in the field of freedom of information, freedom of the press and anti-corruption actions
- strategic litigation and legal support on the basis of FoI requests
- operation and legal support for the FoI request platform KiMitTud

(kimittud.org)

- Anti-corruption policy advocacy in “Ez a minimum” (That’s minimum) Initiative (<http://www.ezaminimum.hu/>) for a basic anti-corruption public policy program at the level of individual state bodies/local municipalities (with other anti-corruption NGOs)

## **BEST PRACTISES**

The specific (resulting from the organization’s experience) examples of good practices of interaction, collaboration between the Think Tank and the Government.

Most of our best practices are based on low and middle level technical cooperation. As the operators for KiMitTud, we are in close contact with almost all of the legal officers of the ministries and other governmental organisations in charge of the administration of freedom of information requests. We use this informal network to promote a professional dialogue via workshops, trainings and other events, but this work does not have direct impact on governmental policy decisions.

Among the rare exceptions for constructive high level cooperation are our ‘uncredited’ “Ez a minimum” Initiative projects, where we gave proposals and legal support for individual state organs informally. The relative effectiveness of such efforts tells a lot about the current political environment for the cooperation with the government in our core activities.

## **PROBLEMS AND BARRIERS**

Challenges and difficult experiences of your Think Tank in its relations with the Government. What do you see as specific problems? Whether and what are the barriers to collaboration and communication?

As far as the anti-corruption issues are considered as a part of party policy agenda by almost every actor (not only by the government and the governing party), and transparency issues are very closely connected with (suspected or denied) corruption in public debate, a certain level of (party) politics interpretation hampering the collaboration and communication is inevitable. However, things got much worse since the Hungarian Government uses the general condemnation and defamation of critical NGOs as a legitimation tool in the governmental communication. The hardest part of the job is to initiate

communication and show the will for constructive debate under these circumstances.

### **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

The key resources of the organization (eg. staff, experts, proven work methods, tools, partnerships).

Any specific cooperation possibilities?

Apart from our legal and IT experts whose already shared expertise is the basis of our public proposals and opinions, we think that the know-how to operate a nationwide FoI request system is our resource which could be the most valuable for the government. Unfortunately this task is one of the rare exceptions where the government in charge does not show interest to nationalise private sector projects.

### **OTHER INFORMATION**

Please provide any other information that does not fit into above categories and is important.

Please provide also any other materials that you think might be of interest.

Our English language page referenced above gives a general, yet informative overview on our activity, while the documents of our most recent public policy project, the conference Open Skies, Open Societies: How Civil Society Can Use New Technology for Social Change, May 9-10, 2016 can be accessed here: <http://dron.atlatszo.hu/>.

## Projects of Atlatszo.hu

### PROJECT TITLE:

**KiMitTud (kimittud.org) – a Freedom of Information request platform**

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)  
**legal aid and capacity building**

### NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT

(Contact information, website, person responsible)

**atlatszo.hu Investigative Journalism Centre, Atlatszonet Foundation,**  
**[kimittud@atlatszo.hu](mailto:kimittud@atlatszo.hu)**

### PROJECT DESCRIPTION (please be concise, max 3000 characters)

Kimittud is an easy to handle online tool for citizens to obtain information from government departments, agencies, and state owned companies. It is everyone's right under the freedom of information laws of Hungary to request information from any public body, and they have to respond. Therefore, we localised alaveteli.org's freedom of information request generator. It's a simple concept: citizens use the website to request information, and the replies are recorded for all to see on the website. Historic requests, along with any resulting correspondence, are archived publicly online. Since its launch in 2012, Kimittud has enabled more than 5900 freedom of information requests and more and more citizens are discovering its power.

Kimittud inevitably revitalised the practice of FoI requests in Hungary in a time when it was needed the most. The media, local citizens and even political parties use the platform regularly, while the number of requests and our legal support for the users significantly increased the awareness of public bodies to freedom of information requirements.

### REPORT – PUBLICATION – POLICY PAPER?

The materials of the project supporting the use of Kimittud are accessible at the Atlatszonet website (with English summaries): <http://atlatszo.net/>. On the

legal capacity building of the project, please contact our lawyer, TiborSepsi at [sepsitibor@gmail.com](mailto:sepsitibor@gmail.com).

**PROJECT TITLE:**

**“Ez a minimum” (That’s the minimum) <http://www.ezaminimum.hu/>**

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)  
**anti-corruption policy advocacy and legal analysis**

**NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT**

(Contact information, website, person responsible)

**atlatszo.hu Investigative Journalism Centre, K-Monitor, Transparency international Hungary**

**PROJECT DESCRIPTION** (please be concise, max 3000 characters)

“Ez a minimum” is an initiative of Hungarian anti-corruption NGOs for state organs and local municipalities and candidates for elected offices to a set of anti-corruption actions forming a basis for a sound anti-corruption and transparency policy. The participating NGOs had advocated for national level proposals (with mandatory publication of public contracts, party founding reform, strengthening conflict of interest rules and revolving doors limitations among them) and also provided a separate set of requirements for local municipalities. Atlatszo’s legal contribution focused on the elaboration of the legal instruments fulfilling the minimum criteria in support of individual organs and municipalities.

**REPORT – PUBLICATION – POLICY PAPER?**

The materials of the project supporting the use of Kimittud are accessible at <http://www.ezaminimum.hu/> and <http://onkormanyzatok.ezaminimum.hu/> respectively.

## K-Monitor

Name of the organization: K-Monitor Watchdog for Public Funds

Year of establishment: 2007

CEO: SándorLéderer

Contact information:

Office and postal address: 1071 Budapest, Damjanich u. 51.

Telephone No.: +36-1-789-5005, +36-20-314-4491

E-mail: info@k-monitor.hu

Mission: K-Monitor strives against corruption and promotes the transparency of public spending in Hungary. With the contribution of its research, analyses and recommendations, it aims to challenge and overcome the social indifference to corruption, to raise awareness and disseminate knowledge.

Key areas of activity and expertise: K-Monitor operates open data websites, conducts research and advocates for legal reform. Being convinced that information technology can contribute to a more open, more transparent and more democratic way of governing, K-Monitor develops databases and online tools by which public expenses become traceable, and decision makers can be held accountable.

## ACTIVITIES AND PROJECTS

- **K-Monitor Database**

K-Monitor database is library of articles from the online media dealing with corruption, public procurement, public spending and, in general, with the transparency of the public sphere. The database aims to make these articles easily accessible and searchable. An online map helps users to find information on geo-relevant cases.

The articles in the database either deal with different types of corruption, public procurement or spending of public funds in general, or describe specific cases.

In the latter case, the articles are selected and tagged according to a steady methodology.

In the database, users can search by person, institution, key word, location, newspaper or case. Browsing among the articles of the database is aided by two search engines: one based on key words and one based on tags.

K-Monitor launched its mobile app ([android](#) and [iOS](#)) built on the database in October 2014. The smartphone application shows geo-relevant public spending and corruption cases on an interactive map that enables commenting and sharing and that also sends notifications to users if news are published about entities (places, institutions, people) of their interest. Moreover users have the possibility to share corruption news from their neighbourhood with K-Monitor.

- **The Network Database**

The aim of the [Network project](#) is to explore the network of the Hungarian economic and political elite and to make the distribution of public funds more transparent. The database makes public procurement procedures, EU-funds and farm subsidies searchable and processable, and helps to explore the background of the political and economic decision-making mechanisms.

The Network was set up in co-operation with Transparency International Hungary and Hungarian Civil Liberties Union (TASZ), and with the support of Open Society Institute and CEE Trust. The database has been accessible to the public since autumn 2013.

- **Red Flags in Public Procurement**

The Red Flags project aims to enhance the transparency of public procurements in Hungary and support the fight against corrupt procurements. It is an interactive tool that allows the monitoring of procurement processes and their implementation by citizens, journalists or even public officials and catch fraud risks at different stages of the procurement process. The Red Flags tool automatically checks procurement documents from the Tenders Electronic Daily (TED) and filters risky

procurements through a special algorithm. Although risky does not mean corrupt, flagged procurement documents are worth checking. Users can subscribe to receive alerts if risky procurements are published (generally or in their special field of interest).

Red Flags is a common project of K-Monitor, PetaByte and Transparency International Hungary, with the support of the European Commission.

- **Minimum program against corruption**

In co-operation with investigative site [Atlatzso.hu](http://atlatzso.hu) and Transparency International Hungary, K-Monitor established a minimum program against corruption ([ezaminimum.hu](http://ezaminimum.hu)) to encourage political decision-makers to make commitments for the legislative period starting in 2014. The minimum program defines problems and proposes measures in six fields: (1) political party- and campaign-financing, (2) the transparency of public procurements and competition, (3) asset declarations and conflicts of interest, (4) the transparency of the maintenance and the realization of the national wealth, (5) the transparency of legislation and the level of involvement, and (6) the strength of the rule of law.

- **Anti-Corruption Report**

K-Monitor acted as the local country correspondent of the European Commission when it prepared its first EU Anti-Corruption Report that was released in early 2014. K-Monitor's report evaluating the anti-corruption measures of the governmental term of 2010-2014 aimed to review what the government had done against corruption and to show the corruption-patterns that evolved in those years. It also aimed to draw attention to the corruption-risks that have to be handled by all means in the following, 2014-2018 term – regardless of the administration. [http://k-monitor.hu/files/page/k-monitor\\_ciklus\\_pdf.pdf](http://k-monitor.hu/files/page/k-monitor_ciklus_pdf.pdf)

- **Campaign Monitor**

Along with Transparency International and [Atlatzso.hu](http://atlatzso.hu), K-Monitor monitored the campaign-expenses of political parties in campaign periods and published the results on website [kepmutatas.hu](http://kepmutatas.hu). The aim of the project was to help the

voters to have a better understanding of the campaign of political parties and their real costs, since comprehensive data on campaign funds is not available. Aside from the parties, the expenses of the government and NGOs supporting the campaigns of parties were also monitored. Data were collected through press monitoring, purchasing, research and the work of volunteers visiting local campaign-events.

### **BEST PRACTISES**

The cooperation on the expert level is often easy and productive, but all efforts fail when they reach the political sphere.

### **PROBLEMS AND BARRIERS**

The government regards critical NGOs as enemies of the state and openly harassed them. This makes real cooperation impossible.

### **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

K-Monitor has currently 5 employees, our annual budget is 130-150.000 USD. We are members of BluePrint, WIN, UNCAC Civil Coalition and the TransparenCEE Network. K-Monitor is the local research country correspondent of the EC's Anti-Corruption Report.

K-Monitor is open to cooperation with like-minded groups that are committed to open government, democracy and the rule of law. Some of its projects have been funded by the Open Society Institute, EEA/Norway Grants and the European Commission.

## Projects of K-Monitor

### **PROJECT TITLE: Ez a Minimum! [This is the Minimum!]**

**TYPE OF THE PROJECT:** anti-corruption platform of policy recommendations during the electoral campaign (both national and local elections)

### **NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT**

K-Monitor Watchdog for Public Funds ([www.k-monitor.hu](http://www.k-monitor.hu))

Átlátszó ([www.atlatszo.hu](http://www.atlatszo.hu))

Transparency International Magyarország ([www.transparency.hu](http://www.transparency.hu))

### **PROJECT DESCRIPTION**

Transparency International, K-Monitor, and Atlatszo.hu have launched an anti-corruption platform and website [www.EzAMinimum.hu](http://www.EzAMinimum.hu) (translates to “this is the minimum”) in 2014. The platform’s ideology is rooted in the desire to bring transparency and accountability to the use of public funds in Hungary – 25 years after the fall of communism. The organizations’ goals are to raise the awareness and support of decision-makers who are politically independent, and to enlist the support of the widest possible audience in civil society to bring the fight against corruption to the forefront of public issues that desperately need resolution. The primary purpose of [www.EzAMinimum.hu](http://www.EzAMinimum.hu) is to address and offer its policy recommendations regarding party and campaign financing, public procurement, declaration of assets by government officials, corruption and self-dealing, the managing of national assets, and issues of great importance concerning the rule of law.

We realised, that over the last 25 years, nothing has happened in the interest of addressing the fight against corruption. Corruption has caused incalculable harm to the country’s social and economic environment, and it is for this reason that the fight against it needs to become the primary interest of all political figures and civic organisations. None of the political parties seeking a place in parliament should be allowed to deny the importance of addressing this problem, so we initiated a minimum programme consisted of a series of demands for immediate reforms. When we launched the Minimum programme, we studied profoundly the [Reconstruction of the State](#) project, so the campaign with signing commitments to do something in case of being elected carries strong resemblance with that campaign.

Our goal was to raise awareness about six interrelated issues: campaign finance, fair and competitive public procurements, asset declarations and conflict of interests, measures for the transparent use of public funds, opening up the legislative process and the rule of law (system of checks and balances). In addition to the issue of corruption and insufficient transparency, Hungarian elections are suffering from a disclosure problem. Even with the new laws, party financial statements are hard to access and disclosure of private funding is spotty at best. So alongside the minimum campaign, we created a new website — Kepmutatas.hu (Hungarian for hypocrisy) — where TI, Atlatszo.hu and K-Monitor had to piece together data about advertisements, media appearances, direct marketing and other expenditures, all without the benefit of publicly disclosed campaign spending reports. It also drew attention to the anomalous overspendings, while the sources of campaign contributions remained unknown.

More than 1100 citizens and NGOs participated in the campaign by joining the programme.

Együtt-PM Party Alliance and Democratic Coalition and several other MP candidate also supported the demands by signing a commitment online. The incumbent Fidesz came to dominate the political scene after the election by a  $\frac{2}{3}$  majority, so the political situation was not favorable for any substantive changes of the policies targeted by the programme. Ez a Minimum, as an NGO-initiated joint anti-corruption proposal came to an end after the elections.

For further information:

<http://atlatszo.hu/2014/03/17/governing-parties-are-overspending-on-2014-campaign/>

<http://budapestbeacon.com/politics/anti-corruption-ngos-hold-roundtable-in-budapest/24056>

<http://english.atlatszo.hu/2015/06/03/transparency-in-campaign-spending-2014-2015-fifty-shades-of-grey/>

**PROJECT TITLE: This is the minimum in local governments**

**TYPE OF PROJECT: anti-corruption platform, campaign to achieve transparency on the local level**

**PROJECT DESCRIPTION:**

The campaign was initiated before the local elections in 2014. Candidates were asked to sign a commitment about introducing several pro-transparency regulations when being elected. This project is still in development as we are co-operating with the winner candidates on specific issues. The four steps which the candidates would commit to are:

- the local government budget is made available on its website and is easily understandable;
- agendas, related proposals and minutes of council meetings and general sittings are made available on the local government websites in a digitally searchable format;
- contracts concluded by the local government, its institutions or its companies are made available on the local government website, as well as a full digitally searchable list;
- asset declarations of each council member, mayor, deputy mayor and each top-level official of related companies are available on the local government website.

Some of these steps are legal obligations, but are still missing from local government practice. The rest, although legally not required, would increase transparency without additional costs. The list of candidates who have signed the undertaking so far can be found on the website.

Almost all of them proposed changes in their municipalities based on the program's suggestions. In several cases the majority voted against them, but it also led to intensive discussions about transparency on the local level and the possibilities of local governments to extend national level legislation. K-Monitor contributed with expert materials to support pro-transparency representatives in these debates. Moreover K-Monitor helped with legal advice to support law drafting and to tailor shape proposals to local needs in Dunakeszi and Szeged. All in all, there are 21 municipalities where positive changes were made in local regulation in consequence of our activities.

The webpage of the project (<http://onkormanyzatok.ezaminimum.hu>) has been updated with further information for citizens and local representatives, a map was added to show best practices in local transparency even beyond the Ezaminimum project. A quiz on local governments and a petition was added too, where citizens might write to their mayors to request greater transparency and cooperation with the Ezaminimum program. An intensive cooperation has started with representatives of Zuglo district of Budapest, where our experts are developing specific guidelines and policies on data publication of

contracts, budget and documents on sessions and decisions of the municipality. This also shows the way how the project will continue. Instead of working with all participating candidates, we will pick those where in depth change can be achieved and open up to new interested municipalities. We are also planning to adapt and develop online tools that can support local municipalities in achieving greater transparency. K-Monitor discussed such future cooperation with [KohoVolit](#) and the Fiscal Responsibility Institute ([KFIB](#)).

For further information: <http://english.atlatszo.hu/2014/10/28/leading-hungarian-ngos-call-for-local-government-transparency/>

## Mertek Media Monitor

Name of the organization: Mertek Media Monitor

Year of establishment: 2011

CEO: Ágnes URBÁN

Contact information: [info@mertek.eu](mailto:info@mertek.eu), [www.mertek.eu](http://www.mertek.eu), [www.mertek.hvg.hu](http://www.mertek.hvg.hu), <http://www.facebook.com/mertekmediaelemzomuhely>

(Website, Facebook, twitter, etc.)

Mission: Mertek is a committed believer to European and international human rights standards and constitutional democracy. It has undertaken to review the implementation and impact of the Hungarian media laws adopted in 2010 and the resultant media policy measures; to contribute to the Hungarian and European discourse on freedom of expression and press freedom through its professionally grounded analyses and position papers; to promote the transparency of media policy decisions; and to ultimately exert pressure on media policy and regulatory decision-makers.

Key areas of activity and expertise: Based on legal, journalistic, sociological and economic expertise, Mertek evaluates media policy measures and lays out its own policy proposals. Its activity comprises of

- conducting legal analysis, through which it directly monitors the authority's activity, conducting impact studies, which allow for the evaluation of the impact of the new media laws on the broader market and content coverage, as well as on journalists' conduct,
- with its results it has a constant presence in the technical and non-technical forums of the domestic and international public, thus promoting the effectiveness of freedom of the press and maintaining publicity that complies with the principles of democracy.

The monitoring of regulatory implementation is carried out by way of legal analyses; such analyses, in addition to decisions by the media authority – including resolutions related to media content, broadcasting rights and funding – also cover related court decisions, and decisions by co-regulatory organizations.

Mertek Media Monitor intends to substitute for the lack of operating transparency of the media authority and provides profound base for the future review of media regulation and media policy.

Assessment of the media law also includes broader sociological and economic analyses. The multidisciplinary approach includes

- the monitoring of journalists' practices and attitudes,
- the analysis of media market trends, with special regard to the pluralism of local media markets and the shaping of printed and online media markets, and
- the analysis of media contents, from news to tabloids, paying special attention to public service media, in order to explore the phenomena and changes that can be traced back to regulation.

## ACTIVITIES AND PROJECTS

Mertek Media Monitor, in order to implement the above goals, performs the following tasks:

- **analysis of media authority decisions and court judgments, publishing the analyses**
- media authority decisions and court decisions relevant to media content: comparing resolutions with prior resolutions and judgments, constitutional court decisions, judgments by the Human Rights Court
- critical analysis of resolutions, establishing potential tendencies in various case types and certain providers
- frequency tenders: analysis of legality, analysis of the impact on the media market and the diversity of media coverage; analysis of the justification of resolutions, study of the relevant market coverage, study of the operating conditions of services providers active in the relevant market
- financing tenders: analysis of reasonability and effectiveness, verification of efficient management, making the necessary public interest data transparent
- monitoring the activities of the media and communications commissioner
- monitoring the decisions of co-regulatory organizations established pursuant to the media law
- **monitoring the effectiveness of the regulation**
- development and application of the press freedom index that gives an

- overview about the impact of media laws on journalism, media market and content supply
- study of the journalists' and editors' attitudes and personal experiences through surveys and interviews; basic survey on their knowledge of media regulations and their general approach towards them, repeated assessments on the impact of regulation on the journalists' activities; analysis of materials disclosed by the program monitoring service of the media authority
  - developing indices and benchmarks and their application in the analysis of market processes and media coverage; creating analytical tools for the long term
  - qualitative content analysis studying the effects of regulation relating to various media types; analysis of whether legislative provisions and official practices cause detectable changes in the production of media content; special attention to public service media content
  - **regular analysis of the technological, economic and social environment of the media system**
  - monitoring foreign regulations and media political tendencies
  - research to identify profession-specific problems in journalism
  - **"advocate" for the freedom of the press and strong publicity, widespread publication of the results**
  - incorporating the results into communications and law courses of universities
  - workshops, professional discussions for journalists, processing journalist case reviews, introducing professional experiences of foreign journalists
  - organizing conferences
  - organizing regular press discussions about project results and current issues related to the project

## BEST PRACTISES

The following are the most crucial results of Mertek's activities thus far:

- the continual monitoring and analysis of the decisions rendered by the Hungarian Media Authority;
- a press freedom index that tracks the attitudes of journalists, media owners and media managers, and the attitudes of the audience as well;

- content analyses to determine the effects of media regulations on public affairs communication;
- analyses of media market processes, the identification of market distortions that result from state intervention and investigations of self-censorship and “soft censorship”;
- analyses of the audience’s media consumption patterns;
- organisation of a public debate series on the future of media regulations and media policies.

In co-operation with other Hungarian civil organisations, Mertek joins European initiatives to shape the future of media regulations. It is also involved in international research and civil projects, its analyses were used by the European Parliament and Freedom House, among others, and the Council of Europe issued responses to its position paper. Mertek's staff regularly appears in domestic and international professional and social public discourse on media. Through their statements, they seek to raise awareness of the importance of press freedom and the consequences of media policy abuses. In addition to its comprehensive media analyses, Mertek also seeks to engage the largest possible segments of the public, through readily intelligible press coverage and online publications, as well as initiatives that strive to stimulate interactive debates.

## **PROBLEMS AND BARRIERS**

The collaboration or communication with the Government is limited. It involves purely the data requests sent to different institutions (Media Council, Public Service Media) or complaints sent to Media Council. The data are usually provided, the Media Council complaints did not have any results.

Mertek Media Monitor was never insulted by any authority (National Tax Authority, Prosecution), like some other NGOs in Hungary.

## **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

The main resources of the organisation come from the following foundations:

Open Society Foundations

FrittOrd

Stichting Democratie & Media  
Visegrad Fund

### **OTHER INFORMATION**

Please provide any other information that does not fit into above categories and is important.

Please provide also any other materials that you think might be of interest.

## Projects of Mertek Media Monitor

**Title of project: Soft Censorship Report Hungary, 2015**

**Organisation responsible: Mertek Media Monitor**

### **Context and summary of the project:**

Press freedom in Europe is facing a widespread and growing threat by “soft” censorship that includes governments’ use of financial power to pressure news media, punish critical reporting and reward favourable coverage. While Europe’s press is not generally threatened by the jailing of journalists or the closure of media outlets, “soft” censorship is a more subtle but a significant new danger - noted in 2014 the World Association of Newspapers and News Publishers (WAN-IFRA) when a report on soft censorship practices in the Hungarian media was released. Mérték Media Monitor as a committed to opinion and press freedom, fundamental rights and freedoms organization believes it is important to explore and present these phenomena.

Mérték’s aim is to evaluate the impacts of media laws and other media policy decisions, and to publish the results on national and international level. Mérték is based on professionally profound operation, independent from business and political interest groups and it has competencies in the field of law, journalism, economics and sociology. It inspires debates about press freedom and publicity and at the same time it puts pressure on authorities and media policy decision makers.

### **Description of the project:**

Mérték Media Monitor in collaboration with WAN-IFRA and CIMA (Center for International Media Assistance) made its [first soft censorship report](#) in 2013. This [work](#) was repeated in 2014 with the support of FrittOrd. The reports were also published in Hungarian (see [here](#) and [here](#)).

Under this project we would like to repeat this analysis of the formal and informal media policy arsenal that distorts the structure of the media market and the public sphere. In contrast to the pre-1989 period, direct administrative interventions by the state do not tend to occur, there is no censorship in the traditional sense of the term. Nevertheless, this does not imply that the media operate freely. There are political parties behind the major media owners and

government advertising spending is generally directed at media that is friendly to or aligned with whichever party happens to be in power at the given time. There is even political pressure on commercial enterprises to disburse their advertising budget to media favoured by political players (this tends to apply especially in sectors where the state can exert substantial pressure as a regulator, even on foreign-owned multinational corporations).

An important lesson of the past years is that political pressure on the media system is not only applied directly through media corporations, but also indirectly through sectors that are connected to the media. These include advertising agencies, sales houses and audience measurement companies. Hungary is an important example, because the changes were dramatic, and it seems to be example of other counties in the region.

### **Purpose of the project:**

The aim is to identify and provide a general description of those areas where the media system is vulnerable, as well as the types of distorting interventions that are brought to bear on it. Based on the experiences and preliminary works of Mérték Media Monitor, we wish to develop a methodology (questionnaires on journalists behaviours, public data to be requested, method of analysing the media authority praxis regarding the establishing of media market, etc.) that will also allow us to conduct comparative analyses.

### **Planned themes and research directions:**

- reshuffling the media market (trends on the media market and how these effect competition);
- in-depth interviews with journalists, media experts;
- state advertising spending and its impact on the publicity (how state advertising is used to reward loyal media);
- evaluation of the Media Council's tendering practice and decisions related to content regulation (how the licensing practices of the Media Council reshape complete segments of the media market);
- effects of a unique transformation of the Hungarian public media into a state broadcaster, and its impact on publicity;
- a questionnaire-based survey exploring the state of press freedom among journalists and media managers (we had this survey from the previous years, so fourth-year data will lend themselves to detecting

prevailing long-term tendencies in the freedom of the press and media regulation).

We will summarize our findings in a comprehensive study. For Mérték Media Monitor, it's important to circulate the results of its activity to the widest audience. To reach this aim we are present at the biggest daily and weekly newspapers, radio stations and online sites. Next to the complex and multidimensional reports we produce shorter blogposts and infographics for better and easier understanding.

Target groups:

- media policy decision-makers at national and EU level
- journalists
- market players
- academic communities
- NGOs
- broader audience

## Political Capital

**Name of the organization:** Political Capital Ltd. (Kft.)

**Year of establishment:** 2001

**CEO:** Péter KREKÓ

**Contact information:**

H – 1037 Budapest, Montevideo utca 2/c

**Email:** [info@politicalcapital.hu](mailto:info@politicalcapital.hu)

**Website:** [www.politicalcapital.hu](http://www.politicalcapital.hu)

**Facebook:** <https://www.facebook.com/politicalcapital/>

**Twitter:** [https://twitter.com/pol\\_cap](https://twitter.com/pol_cap)

### Mission:

Political Capital is a leading policy research and consulting institute based in Budapest, Hungary. Established in 2001, the institute has a decade of experience in research, consultancy, and advocacy, as well as in project management and event organisation. Political Capital is an independent, non-partisan think tank committed to the basic values of liberal democracy, human rights, and market economy. The institute has a strong international network and a worldwide reputation. Over the last decade it has become the most influential think tank in Hungary.

### Key areas of activity and expertise:

- Regional political trends in Central Eastern Europe
- Right-wing populism, extremism, and counterstrategies
- Prejudices and conspiracy theories
- Election research and advocacy in election-related issues
- Kremlin's influence on European parties and institutions, as well as the spread of Russian propaganda within the EU
- Migration trends, policies, and attitudes
- Illiberal tendencies in the European Union
- Euro-Atlantic relations, future of the EU

## ACTIVITIES AND PROJECTS

- In 2013, in co-operation with four NGOs (EötvösKároly Institute, Hungarian Civil Liberties Union, Hungarian Helsinki Committee, Transparency International Hungary) Political Capital initiated an amendment to the electoral procedure law in order to close loopholes that remained open for election fraud. The government integrated most of the proposed amendment, so this was a highly successful initiation.
- In late 2013 in co-operation with Transparency International Hungary, Political Capital initiated an amendment to the campaign finance law in order to prevent billions of HUF of public money from finding its way to sham parties established in the hope of pocketing campaign support. Though Fidesz speakers announced immediately they were open to our new proposal, they did not accept any of the suggestions. However in early 2016 they indicated that by the end of the year they will make the necessary changes in the law.

## BEST PRACTISES

Informal networking: having a coffee with a decision-maker doubles the chance for their acceptance of an invitation for a workshop or a conference, which paves the way for a think tank's initiation to be taken seriously.

## PROBLEMS AND BARRIERS

In these illiberal times independent think tanks, just like most NGOs are labelled as foreign agents.

## RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION

Regular or ad hoc alliances with NGOs can be effective.

## OTHER INFORMATION

## Projects of Political Capital

### Measuring Political Violence

Full name of the project: “Developing innovative methods for comparative researches on violent radicalization among the youth to help prevention”

Duration: 2013-2015

Responsible organisation: Political Capital

Partner organisation: DEMOS UK

Aim of the project: The aim of the project was to develop and pilot good traditional and new comparative research methods in order to assess the threat of violent radicalization by identifying the vulnerable groups in given EU member states where the justification and glorification of violence poses a danger. The project wishes to contribute to gaining a clear picture of violent extremism and its social-attitudinal background, and thereby increase the effectiveness of prevention programmes.

Context of the research: The project was based on the experience that, while good comparative data would be the necessary (but not sufficient) precondition of any good policy strategies and decisions to prevent political violence, exact datasets are often missing for comparing the different countries and communities from the perspective of the potential for the use of violence they have.

Results of the project:

- a study in English: [http://www.politicalcapital.hu/wp-content/uploads/PC\\_ISEC\\_political\\_violence\\_study\\_eng\\_web.pdf](http://www.politicalcapital.hu/wp-content/uploads/PC_ISEC_political_violence_study_eng_web.pdf)
- With two different types of surveys the project examined the willingness to violence, the acceptance of violent acts and, in general, the opinions on and attitudes towards violence in Hungary and the UK in 2014. The results of the research in detail as well as the lessons learned through the multivariable statistical analyses of the sample of the Hungarian CAPI survey are available in the following report: [http://www.politicalcapital.hu/wp-content/uploads/PC\\_ISEC\\_political\\_violence\\_opinions\\_en\\_web.pdf](http://www.politicalcapital.hu/wp-content/uploads/PC_ISEC_political_violence_opinions_en_web.pdf)
- a detailed description of methodology: [http://www.politicalcapital.hu/wp-content/uploads/PC\\_ISEC\\_political\\_violence\\_methodology\\_en\\_web.pdf](http://www.politicalcapital.hu/wp-content/uploads/PC_ISEC_political_violence_methodology_en_web.pdf)

- a study on the role of social media in populist right wing radicalisation: [http://www.politicalcapital.hu/wp-content/uploads/PC\\_ISEC\\_political\\_violence\\_social\\_media\\_mapping\\_en\\_web.pdf](http://www.politicalcapital.hu/wp-content/uploads/PC_ISEC_political_violence_social_media_mapping_en_web.pdf)

The project was supported by the European Commission programme 'Prevention of and Fight against Crime' (ISEC) and Open Society Foundations. Monitoring Radicalisation

Political Capital carries out extensive and in-depth research on right wing radicalism and the spread of far right populism. It is one of the most important and most widely acknowledged areas of research that the institute engages with on both national and international level.

Its activities in this field of research are manifold:

- In 2006 PC launched a comprehensive research project on right and left wing extremism. At the end of 2006 the National Security Office (today the Constitution Protection Office, operating under the direction of the Minister of Interior) commissioned PC to carry out open source desktop research on extremist movements. In the period between 2006 and 2009 PC created a database of 468 documents, comprising analyses, media research, analyses of internet forums and blogs' contents, as well as public opinion polls. The entire research is available on the website of PC in Hungarian ([http://www.politicalcapital.hu/elemzeseink/nbh-nak\\_keszített\\_elemzesek/](http://www.politicalcapital.hu/elemzeseink/nbh-nak_keszített_elemzesek/)), with an executive summary that describes the fast radicalisation of extreme right wing groups after 2006 and the way this radicalisation led to the hate crimes committed against Roma in 2008-2009. The first in the series of murders of Roma people in 2008-2009 took place on 3 November 2008 in Nagycsécse, a village in the Northern Hungary. In its analyses made for the National Security Office, PC constantly had been warning of the dangers of growing ethnic conflicts, a phenomenon that ultimately led to the murderous crimes in 2008-2009.
- In 2010 PC published a comprehensive research on the popularity of extreme right wing ideas across Europe. Called the Demand for Right-Wing Extremism (DEREX) index, the study measures and compares people's disposition to far right ideas in 33 countries. <http://derexindex.eu/>; <http://www.riskandforecast.com/post/in-depth->

- [analysis/back-by-popular-demand\\_411.html](#)
- Political Capital continues its research on radicalisation but not with the support of the Hungarian government but with that of the European Union and foreign research organisations. Political Capital became a leading institution in the EU Radicalisation Awareness Network (RAN), an organization that was set up by the European Commission in 2011 as an EU-wide umbrella network of practitioners and local actors involved in countering and preventing violent radicalisation. In the Network, until 2015, different working groups exchanged experiences, knowledge and best practices. The Director of Political Capital, Peter Kreko, was a co-chair of the working group RAN-PREVENT. The purpose of this working group was to capture and disseminate approaches in practice, learning from those in Europe actually working ‘on the ground’ with young people vulnerable to violent radicalization, with the aim of improving future practice in the prevention of violent extremism. The working groups shared their experiences and served as an advisory board for the Commission on what measures might be needed. The idea behind the establishment of the network was that fight against terrorism too much focused on repressive measures and not enough on preventive work. Therefore, the working groups set up new methods to combat the violent ideologies at the local level. The groups presented methods and recommendations that Member States may use on national and local levels to counter violent extremism. [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/radicalisation\\_awareness\\_network/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/radicalisation_awareness_network/index_en.htm)
  - Within the research on radicalisation, Political Capital has been closely monitoring the level of xenophobia and prejudices in Hungary and the CEE region. Analysing the phenomena of anti-Semitism, anti-Gipsyism, aversion to foreigners and LGBTQ people is one of the core areas of the institute’s work. (see for instance [http://www.politicalcapital.hu/wp-content/uploads/Xenophobia%20and%20Radical%20Nationalism%20Report\\_Hungary.pdf](http://www.politicalcapital.hu/wp-content/uploads/Xenophobia%20and%20Radical%20Nationalism%20Report_Hungary.pdf) and <https://freedomhouse.org/report/special-reports/central-europe-s-faceless-strangers-rise-xenophobia-region#.V6mILiLTGg>)
  - The institute is also committed to combat far-right ideologies and has been analysing the characteristics of extremist rhetoric. Based on the research results, Political Capital has elaborated an education resource to empower young people to encounter hate speech.

[http://www.politicalcapital.hu/wp-content/uploads/Oktatasi%20segedanyag\\_Fellepes%20antiszemita%20retorika%20ellen.pdf](http://www.politicalcapital.hu/wp-content/uploads/Oktatasi%20segedanyag_Fellepes%20antiszemita%20retorika%20ellen.pdf) and [http://www.politicalcapital.hu/wp-content/uploads/Norveg\\_vegso%20tanulmany\\_roiditett\\_EN.pdf](http://www.politicalcapital.hu/wp-content/uploads/Norveg_vegso%20tanulmany_roiditett_EN.pdf)

## Republikon Institute

Name of the organization: Republikon Institute

Year of establishment: 2007, operates from 2008

CEO: Csaba TÓTH

Contact information: [www.republikon.hu](http://www.republikon.hu), [republikon@republikon.hu](mailto:republikon@republikon.hu)

Harangvirág u. 7. Budapest, Hungary-1026

Mission: Republikon Institute is a liberal think tank organisation focusing on analysing Hungarian and international politics, formulating policy recommendations and initiating projects that contribute to a more open, democratic and free society. The goal of the Institute is to promote discussion and implementation of liberal ideas, approaches and policies, to articulate new ideas and to find ways of making the values of liberal democracy, human rights and tolerance more popular.

Key areas of activity and expertise: Republikon Institute reviews political processes and the political system of the country. It regularly publishes political analysis, evaluation of events and forecasts of processes to be expected. The Institute reflects on current events and issues, such as the migration issue recently, or euro-scepticism and LGBT issues. It does not define itself as a legal think tank but a policy institute.

## ACTIVITIES AND PROJECTS

Research and publications: Through political analyses, quantitative research and extensive media studies, Republikon aims to influence the public debate by shedding light on the operations of the government and the different political parties. The institution organises conferences on human rights and tolerance; analyses government policy making and voting record in Parliament, shows how the different changes in the institutional framework of Hungarian democracy help government power.

**Political analyses:** The Institute regularly publishes political analyses on political processes. With original approaches, innovative methods and scrupulous research activities the Institute is keen on tackling and questioning the clichés and stereotypes present in Hungarian political thought. Even if focusing on a specific issue, the political analyses of Republikon always attempt to draw general conclusions about the Hungarian political system.

**Policy analyses:** The Institute monitors government policy with regards to healthcare, education, the economy, tolerance and human rights issues. The weekly reports contain an authoritative summary of the week's events while the regular policy papers provide more in-depth analyses of policy trends. In 2011 the Institute launched a major program aimed at bringing talented young people to the policy process by organising future-oriented policy workshops throughout Hungary.

**Conferences and workshops:** Republikon Institute regularly organises events that give an opportunity for decision makers, academics and experts to interact and share ideas on various current political and policy issues. These events cover as diverse topics as the future of free market solutions in Hungary, the situation of minority rights and the evaluation of the activities of the president of the Republic.

## **BEST PRACTISES**

The Institute has interaction mainly with opposition parties and they conduct opinion polls upon commission.

Think tanks in general in the country have good initiatives on a micro-level. In the field of refugee issues, for example, there are several organisations that are useful and active on the micro-level of supporting the integration of refugees but there is a lack of professional material that would address the issue on a macro-level, examining the refugee crisis from an angle that could be accepted or used also politically and would constitute the basis of an adequate refugee policy.

## **PROBLEMS AND BARRIERS**

Adequate and efficient think tank operation ultimately depends on satisfactory resources. Ideally management, fundraising and content supply within a think

tank should be separated, but in Hungary this is not the case. In the Hungarian think tank sector the content is to a great extent determined by the donor and not the agenda of the think tank. Project-based operation and the practice of funding projects instead of the general activities of think tanks is not helpful and it does not support the main agendas of think tanks.

## **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

The Institute operates as a business entity, too, undertaking to conduct research and opinion polls for profit.

It has projects that are partly financed by the NaumannStiftung or the Friedrich Ebert Stiftung. Concerning funding, projects have to be cut up into smaller parts and these can be financed by donors. Whole projects are usually not funded.

The Institute is a member of the European Liberal Forum, an umbrella organisation of liberal think tanks in Europe. It is a network and it can also provide financial support for projects.

The Institute is also a member of 4liberty.eu, which is a looser network in the Central-Eastern and Baltic region.

### **Projects of Republikon Institute**

#### **PROJECT TITLE: Primary election project**

**TYPE OF THE PROJECT:** advocacy for primary elections in Hungary, methods used: conference, paper, recommendations, contact with political parties, facebook page, maintaining the discourse on primary elections (through media)

#### **PROJECT DESCRIPTION**

The context of the project is the current political situation in Hungary: the political opposition is fragmented and it struggles with the lack of visibility, trust and the capacity to act. Those voters who left the governing Fidesz party do not join the opposition. In order to stimulate the latter, and because the current election system does not support fragmentedness, the Republikon Institute proposes to introduce primary elections. It is an instrument of narrowing the

field of candidates, it helps also to enhance media attention and involve citizens, thus increase the trust in the democratic opposition.

The concept (according to the Institute's study): the primary election system is based on the idea that the potential representatives should be chosen by a wide group of people, not just by the members of a given party or a sole individual. It brings about transparency, simplifies and explains the process of elections for the voters. There are several examples for primary elections, especially in the USA or in Europe – the election has to suit to the political situation and culture of a given country.

## PROJECT RESULTS

The paper of the Institute that examines the possibility of holding primary elections is entitled 'Participation, transparency, action: primary election as political innovation', and it was supported by the Friedrich NaumannStiftungfür die Freiheit. The paper analyzes the international practices of primary elections in Europe, and gives a detailed proposal of primary election for the Hungarian opposition. Parts of the paper were published on 4liberty.eu: <http://4liberty.eu/participation-transparency-action-primary-election-as-political-innovation/>

The aim of the project, including the paper, media appearances, the discourse on social media etc, is to convince political actors of the usefulness of primary elections and to set the detail of a primary elections procedure.

## FUNDING

The Primary Elections project is one of the major projects of the Institute. The various activities of the project are only partially funded, e.g. the paper was funded by the NaumannStiftung but that funding does not cover every activity within the project.

## Centre for Fair Political Analysis

### INFORMATION ABOUT THE ORGANIZATION (THINK TANK)

Name of the organization: **Centre for Fair Political Analysis (MéltányosságPolitikaelemzőKözpont)**

Year of establishment: **2007**

CEO: **Ervin Csizmadia**

Contact information: [www.meltanyossag.hu](http://www.meltanyossag.hu)

(Website, Facebook, twitter, etc.)

Mission:

**Centre for Fair Political Analysis is a think tank specializing in the study of social and political cohesion. Liberal values are closest to the company, however, it is not a follower of the dogmatic form of liberalism. Its philosophy is built upon „three Cs”: Conflict, Consensus and Cohesion. Conflict in politics is natural and cannot be abolished, consensus however is necessary while cohesion is indispensable. CFPA’s research is aimed at the more profound academic study of these three concepts; at presenting their relation towards one another and at creating a new cohesion strategy in Hungary.**

Key areas of activity and expertise:

**research on social cohesion and social processes, monitoring the development of civic education, monitoring political trends and processes, carrying out opinion polls and focus group studies upon commission**

### ACTIVITIES AND PROJECTS

- Development index of Hungary: since June 2015 CFPA has been regularly monitoring the dynamics of macro and micro changes in the country in four fields: parties and governance, economic processes, social processes, diplomacy and international relations. The regular monthly analyses are available only for contracted partners.
- civic education, comparative analysis of civic education in Europe and in Hungary
- research on social cohesion

- analysis on the restructuring of the Constitutional Court in comparison with constitutional jurisdiction in other European countries
- in cooperation with Neticle Technologies it analyses cyberspace and monitors political trends and supports its findings with visual graphics

## **BEST PRACTISES**

## **PROBLEMS AND BARRIERS**

## **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

Centre for Fair Political Analysis generally has indirect contact with the Government. We have had positive experiences when inviting a Government representative to a policy specific conference (connected to education and civic education) in order for all sides to be represented in the dialogue. Nevertheless we generally provide commentary and feedback through our research and policy analyses, as well as media appearances in connection to these. While there have been instances where our expert's opinion was asked on policy specific issues, our experience is that it is very difficult to have direct, visible effect on policy from the outside. It is only possible to create change if there is willingness to take action from the side of the Government.

It is very difficult for a non-partisan, independent think tank to make policy change in Hungary as all issues become politicized. When CFPA feels there is an issue that needs to be addressed it generally publishes a statement on behalf of the think tank which we also send to the media. We have had negative experiences however not just with the Government but with opposition parties as well even in such an issue as the creation of an independent non-partisan Parliament funded policy research organization for the support of Roma integration. We received absolutely no feedback from the parties as no one felt that it was politically relevant. Another method we use is to generate public discourse such as in the case of the new Preamble of the Constitution. The fact that we could create a widespread debate about the issue also meant that it could reach the interest level of the Government as well. In our current project which focuses on facilitating dialogue between the Government and those opposing the Liget project we also face this difficulty. Currently the Government is not pressed to take steps toward communicating

with the opponents.

A possible solution to issues like this could be to cooperate with several think tanks on an issue of importance. However this is also difficult in Hungary as most organizations are politically leaning therefore it is difficult to find issues in which consensus could be achieved.

### **OTHER INFORMATION**

Please provide any other information that does not fit into above categories and is important.

Please provide also any other materials that you think might be of interest.

## Projects of Centre for Fair Political Analysis

### **PROJECT TITLE: Mediation between NGOs against the Liget project and the government**

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.)

Facilitating mediation; creating social dialogue between the group of protesters, NGOs and the government agencies involved with the reconstruction of the Liget, Budapest's largest public park.

### **NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT**

(Contact information, website, person responsible)

MéltányosságPolitikaelemzőKözpont (Centre for Fair Political Analysis)

[www.meltanyossag.hu](http://www.meltanyossag.hu)

Project details: <http://www.meltanyossag.hu/node/4972>

Contact person: PéterZsolt, [zsolt@meltanyossag.hu](mailto:zsolt@meltanyossag.hu)

### **PROJECT DESCRIPTION**

The project aims to create dialogue between the group of protesters, NGOs and the government agencies involved with the reconstruction of the Liget, Budapest's largest public park. The aim is to find solutions which would ensure the protection of green areas as well as the cultural development of the capital. It is an important element of the project that the methodology for the professional dialogue is decided upon collectively by all participants. There would be several rounds of consultations. Méltányosság would act as an independent facilitator in generating dialogue. At the end of the project the think tank aims to present an information packet which includes the positions of the government, experts and NGOs, as well as recommendation on how to dissolve the current conflict. The project is currently under way. Méltányosság has previously carried out successful mediation between environmental NGOs and industrial actors.



## Szalay Laszlo Club

Name of the organization: SzalayLászlóköör (SzalayLászló Club)

Year of establishment: 2013

CEO: main contactperson: IstvánSomogyvári

Contact information: <http://szalaykor.blog.hu/>

(Website, Facebook, twitter, etc.)

Mission: Restoration of the democratic rule of law and abolishment of the National Cooperation System

Key areas of activity and expertise: analysis of legal rules, recommendations, proposals for amendments

SzalayLászló Club is not a registered organisation and not a legal person. It is a “simply” a community of like-minded lawyers who do not receive any remuneration for their activities carried out in the framework of the club. It receives neither state funding nor any other kind of funding. It is independent of party politics, their members are volunteers who discuss issues of their interest and profession. They publish their studies on their blog, sometimes in Népszabadság (a Hungarian daily that has just been put an end to) and in ÉletésIrodalom, a Hungarian weekly. It holds a conference at least once in every year, in which it also gives an account of its activities.

## ACTIVITIES AND PROJECTS

Some characteristic activities:

- Analysing legal rules from the aspect of the requirements of the rule of law, e.g. the act on the Constitutional Court, the acts on the operation of courts and the prosecution, the acts on the legal status of judges and prosecutors, the standing orders of the Parliament, the act on the operation of Parliament, the act on the right to vote and the election process, the act on municipalities, the act on the Fiscal Council, the act on legislation, the act on government officials, the act on the National Bank, the acts on the media, the act on the freedom of religion, the rules

- of party and campaign financing etc.
- examining new regulations related to emergency situations (e.g. terror threat, refugee crisis) from a rule of law aspect
  - examining the adoption process of the new constitution and the new rules on elections
  - examining the possibility of the restoration of institutions deprived of independence (e.g. the Constitutional Court)
  - drafting proposals for amendments of legal rules
  - examining, reviewing and interpreting the concept 'show trial' and autocracy in a historical context
  - reviewing the new regulation on data protection and freedom of information, especially in light of the new data protection regulation and directive of the EU, and the national judicial practice on the publicity of data of public interest
  - making a proposal for primary elections
  - cooperating with other NGOs in the above mentioned fields, especially with the HHC in asylum, with Mertek concerning regulations on the media, with EKINT in constitutionalism, with TI concerning corruption)

## **BEST PRACTISES**

Not applicable.

## **PROBLEMS AND BARRIERS**

Szalay Club has no interaction at all with the government. Since the Club is highly critical of the legal rules enacted under the reign of the present government, it belongs to those forums with which the government does not seek cooperation at all.

## **RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION**

Not applicable.

## **OTHER INFORMATION**

Please provide any other information that does not fit into above categories and is important.

Please provide also any other materials that you think might be of interest.

## Legal Defence Bureau for National and Ethnic Minorities (NEKI)

Name of the organization: Otherness Foundation Legal Defence Bureau for National and Ethnic Minorities

Year of establishment: 1994

Year of closing down: 2016

CEO: dr. Erika Muhi chief curator

Contact information: [www.neki.hu](http://www.neki.hu), facebook/neki  
(Website, Facebook, twitter, etc.)

Mission: legal assistance for victims of discrimination

Key areas of activity and expertise: legal representation before courts and other authorities, strategic litigation in the interests of the Roma minority

### ACTIVITIES AND PROJECTS

Legal profession

Human rights

Access to justice

Besides legal representation NEKI regularly publishes informational leaflets. It publishes its White Papers in which it presents its most important cases, analysis of related law, conclusions and recommendations.

### BEST PRACTISES

Before 2012 NEKI as well as other non-governmental organisations engaged in cooperation with the legislature. The representatives of NGOs met the experts of the relevant ministries to discuss drafts.

### PROBLEMS AND BARRIERS

Since 2014 the Government has not cooperated with legal defence NGOs.

### RESOURCES OF ORGANIZATION, POSSIBLE AREAS OF COOPERATION

NEKI works with several experts, and it has a good partnership with other NGOs. Its best work method is fact finding. We meet and talk with our client in his/her settlement, and then we meet and talk with the other participants of problem. Using the American testing method, we send out Roma and non-Roma people to the place in question to help decide whether discrimination can be established or not. After such meetings we make a decision about the complaint, and we decide if the problem is discrimination or not.

## Projects of NEKI

**PROJECT TITLE:** Anti-discrimination lawsuit against the municipality of Miskolc

**TYPE OF THE PROJECT:** (e.g. empirical research, legal analysis etc.) strategic litigation

**NAME OF THE ORGANIZATION RESPONSIBLE FOR THE PROJECT:** Hungarian Civil Liberties Union and the Legal Defence Bureau for National and Ethnic Minorities

**PROJECT DESCRIPTION** (please be concise, max 3000 characters)

The municipality of Miskolc has been pursuing openly anti-Roma politics over the past years. Discriminatory measures, inimical and stigmatizing communication have become the norm. The Hungarian Civil Liberties Union and the Legal Defence Bureau for National and Ethnic Minorities have filed a case against the municipality, the mayor's office and the local police authority.

The municipality of Miskolc does not intend to treat social problems rooted in poverty with adequate measures: the practice has become to move low status, mainly Roma people out of downtown. Police raids on slums and the abolishment of slums without alternative housing are the tools of this policy. Such measures contribute to increasing prejudice against the Roma and they violate the requirement of equal treatment.

The HCLU and NEKI have chosen to sue the municipality, the mayor's office and the local police authority. In their standpoint the authorities harass those who live in the slums. The ombudsman called upon the authorities to put an end to the raid almost a year ago but it was of no avail. Therefore, there is no other tool left than litigation.

The two NGOs launched the litigation within the wider project running with the slogan „Ma mi, holnap!” (Today it's we, tomorrow it'll be you!). This wider project was launched on 1 December 2015 by six civil organisations to

counteract administrative offences and measures that are imposed disproportionately on certain social groups.

**PROJECT TITLE:** Shadow reporting concerning the 2009 Roma murders at Tatárszentgyörgy

**TYPE of PROJECT:** shadow reporting

**RESPONSIBLE ORGANISATION:** NEKI, HCLU, ERRC

**DESCRIPTION:**

Three civil organisations, NEKI, HCLU and the European Roma Right Centre (ERRC) carried out on the spot exploration and fact-finding activities related to the double homicide that happened on 23 February 2009. Being concerned about the way the authorities communicated the event in their press releases and about the fact that they provided no valuable information, the NGOs especially focused on whether the authorities proceeded in the case in an appropriate manner. The NGOs are concerned that there are no news about the disciplinary proceedings launched against some of the officials who did not proceed in an adequate way. After such a grave crime, which was probably a hate crime, the NGOs would also like to see a concrete action plan by the police with a view to avoid crimes of this nature in the future. In drawing up the report, the NGOs gathered information from family members, neighbours and people in the village, they used the press releases of authorities and the related legislation.

**RESULT:**

The report in Hungarian is available here:

<http://dev.neki.hu/wp-content/uploads/2013/05/tat%C3%A1rszentgy%C3%B6rgyi-jelent%C3%A9s.pdf>

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