

# HUNGARY 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Hungary is a multiparty parliamentary democracy. The unicameral National Assembly (parliament) exercises legislative authority. It elects the president (the head of state) every five years. The president appoints a prime minister from the majority party or coalition in parliament following national elections every four years. In the 2014 parliamentary elections, the Fidesz-KDNP (Christian Democratic People's Party) alliance retained a majority in parliament. The Organization for Security and Cooperation in Europe (OSCE) election observation mission's report concluded the elections were efficiently administered and offered voters a diverse choice following an inclusive candidate registration process. The OSCE also noted the main governing party enjoyed an undue advantage because of restrictive campaign regulations, biased media coverage, and campaign activities that blurred the separation between political party and the state. Viktor Orban, the Fidesz party leader, has been prime minister since 2010.

Civilian authorities maintained effective control over security forces.

The most serious human rights issues included allegations that government action helped consolidate media outlets in the hands of progovernment owners, criminal penalties for libel (though court decisions limited their impact), restrictions on funding for nongovernmental organizations (NGOs), allegations of corrupt use of state power to grant privileges to certain economic actors, evidence of growing anti-Semitism, allegations of mistreatment of migrants, and a law requiring NGOs receiving foreign funding to brand themselves as such.

The government took steps to prosecute and punish security forces and other officials who committed abuses. Impunity for human rights abuses was not widespread.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

## **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

## **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices, but there were reports that such abuse did sometimes occur.

As of November the national preventive mechanism under the Optional Protocol to the UN Convention against Torture undertook eight visits to places of detention, including three prisons and two police facilities. The commissioner for fundamental rights issued four public reports during the year on the findings of visits that occurred in 2016. The publication of reports on visits during the year was pending. All reports detailed cases of cruel, inhuman, or degrading treatment or punishment.

The Central Military Prosecutor's Office conducted an investigation of possible mistreatment in connection with the November 2016 death of an inmate in the Budapest Strict and Medium Regime Prison. According to media reports, the official autopsy, which determined that the inmate died of heart failure, found 43 signs of strikes and kicks on the inmate's body.

## **Prison and Detention Center Conditions**

NGOs reported overcrowding and poor physical conditions in the prison system. There were occasional reports of physical violence by prison guards, prisoner-on-prisoner violence, and instances of authorities holding pretrial detainees and convicted prisoners together.

Physical Conditions: In 2015 the European Court of Human Rights (ECHR) held that overcrowding of penitentiaries in the country constituted a structural problem. In response to the ruling and other cases, in October 2016 the government adopted a law to deal with overcrowding. Notwithstanding the legal change, prison overcrowding remained a problem. The 2015 Annual Penal Statistics survey released by the Council of Europe in March found that while the occupancy rate of prisons had improved since 2014, overcrowding was still a problem. According to the data provided by the National Penitentiary Headquarters, in 2016 the average

occupancy rate decreased to 131 percent, while the average number of detainees increased.

NGOs continued to report poor physical and sanitary conditions in certain penitentiaries, including the presence of bedbugs and other insects, insufficient toilet facilities, and toilets not separated from living spaces. NGOs also noted frequent shortages of both natural light and artificial lighting in cells and a lack of adequate heating. There continued to be a shortage of psychological care.

Administration: NGOs reported that authorities occasionally failed to investigate credible allegations of mistreatment. There was no separate ombudsperson for prisons, but detainees could submit complaints to the commissioner for fundamental rights (ombudsman) or to the prosecutor's office responsible for supervising the lawfulness of detention. The ombudsman handled prison complaints and conducted ex officio inquiries but had no authority to act on behalf of prisoners.

Independent Monitoring: Authorities allowed the Council of Europe's Committee for the Prevention of Torture (CPT) to conduct both periodic and ad hoc visits to prisons and detention centers. On October 20-26, the CPT conducted an ad hoc visit to assess the situation of foreign nationals detained under aliens legislation. As of year's end, a report on the results of the visit had not been released.

On June 16, the National Police Headquarters (ORFK) terminated with immediate effect the cooperation agreement it had with the Hungarian Helsinki Committee (HHC) since 1997 that allowed the HHC to monitor conditions in police detention centers. On August 24, the National Penitentiary Headquarters terminated its 18-year-long cooperation agreement with the HHC, effective September 30. Prior to termination of that agreement, the HHC conducted three prison-monitoring visits during the year, the last of which was on September 18-19.

Improvements: The number of convicts granted early release with electronic monitoring increased, and modifications to the law allowed the wider use of such release starting January 1.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his/her arrest or detention in court.

## **Role of the Police and Security Apparatus**

The ORFK, under the direction of the minister of interior, is responsible for maintaining order nationwide. The country's 19 county police departments and the Budapest police headquarters are directly subordinate to the ORFK. City police have local jurisdiction but are subordinate to the county police. Two other units, the Counterterrorism Center (commonly known by its Hungarian acronym "TEK") and the National Protective Service (NPS), are directly subordinate to the minister of interior. The TEK is responsible for protecting the prime minister and the president; and for preventing, uncovering, and detecting terrorist acts, including kidnappings, hijackings, and other offenses related to such acts, and arresting the perpetrators. The NPS is responsible for preventing and detecting internal corruption in law enforcement agencies, government administrative agencies, and civilian secret services. Both the TEK and the NPS are empowered to gather intelligence and conduct undercover policing, in certain cases without prior judicial authorization.

The national intelligence services, the Constitution Protection Office and the Special Service for National Security, are under the supervision of the minister of interior and responsible for domestic intelligence. The law also provides for the Counterterrorism Information and Crime Analysis Center (TIBEK), a national security service entity under the direct supervision of the minister of interior. TIBEK has no authority to conduct secret information gathering activities and has no access to information collected by the NPS on police officers. TIBEK started operation in July 2016.

The Hungarian Defense Force is subordinate to the Ministry of Defense and is responsible for external security as well as aspects of domestic security and disaster response. Since 2015, under a declared state of emergency prompted by mass migration, defense forces may assist law enforcement forces in border protection and handling mass migration (see also section 2.d., Access to Asylum).

In 2016 parliament amended the constitution to create a new "threat of terror" state of emergency. In the event of an act of terror or considerable and immediate danger, parliament, at the initiative of the cabinet, can declare a state of emergency with the support of two-thirds of members of parliament present. The cabinet can then issue decrees to suspend the application of or to derogate from certain laws, or take other extraordinary measures for up to 15 days before the special legal order must be confirmed by a two-thirds parliamentary vote. Such measures may

include tightening border controls, transferring air traffic control to the military, deploying armed forces and law enforcement forces to protect critical infrastructure, and taking special counterterrorism measures. The amendment specifies that the cabinet can deploy armed forces domestically only if the use of law enforcement and national intelligence agencies are insufficient under the threat of terror.

Civilian authorities generally maintained effective control over law enforcement and the armed forces, and the government had effective mechanisms to investigate and punish abuse and corruption. Military prosecutors are responsible for investigating abuses by military, police, penitentiary staff, parliamentary guards, clandestine services, and disaster units.

### **Arrest Procedures and Treatment of Detainees**

Police are obligated to take into “short-term arrest” individuals who are apprehended committing a crime or are subject to an arrest warrant. Police may take into short-term arrest individuals who are suspected of having committed a crime or a petty offense, are unable or unwilling to identify themselves, and are unaccompanied minors suspected of having run away. Short-term arrests generally last up to eight hours but may last up to 12 hours in exceptional cases. Police may hold persons under “detention for the purposes of public safety” for 24 hours. Detention of persons who abscond from probation may last up to 72 hours. Police, a prosecutor, or a judge may order detention of suspects for 72 hours if there is a well founded suspicion of an offense punishable by imprisonment. A pretrial detention motion must be filed with a court prior to the lapse of the 72-hour period. A defendant may appeal a pretrial detention order.

Police must inform suspects of the charges against them at the beginning of their first interrogation, which must be within 24 hours of detention. Authorities generally respected this right.

There is a functioning bail system. Representation by defense counsel is mandatory in the investigative phase if suspects face a charge punishable by more than five years’ imprisonment, are already incarcerated, are deaf, blind, unable to speak, or have a mental disability, are unfamiliar with the Hungarian language or the language of the procedure, are unable to defend themselves in person for any reason, are juveniles, or are indigent and request the appointment of a defense counsel. When defense counsel is required, suspects have three days to hire an attorney; otherwise police or the prosecutor appoints one. If suspects make clear

their unwillingness to retain counsel, the prosecutor or police are required to appoint counsel. NGOs criticized the quality of such appointed counsel.

Police must inform suspects of their right to counsel before questioning them. Neither police nor the prosecutor is obligated to wait for counsel to arrive before interrogating a suspect, however. In 2013 the Constitutional Court ruled that the absence of mandatory defense counsel at the first interrogation of a criminal suspect due to police failure to provide timely notification of the date and place of the session violated the constitutional right to counsel, and excluded from evidence statements made under those circumstances. Human rights NGOs continued to report, however, that police routinely proceeded with interrogation in the absence of defense counsel immediately after notifying suspects of their right to counsel.

The law permits short-term detainees to notify relatives or others of their detention within eight hours unless the notification would jeopardize the investigation. Investigative authorities must notify relatives of a person under “72-hour detention” of the detention and the detainee’s location within 24 hours.

Pretrial Detention: An investigatory judge may order pretrial detention where there is a risk of a detainee’s fleeing, committing a new offense, or hindering an investigation. Cases involving pretrial detention take priority over other expedited hearings. A detainee may appeal pretrial detention.

When the criminal offense is punishable by up to 15 years’ or life-long imprisonment, the law does not limit the duration of pretrial detention. In 2015 the ombudsman initiated a case at the Constitutional Court to abolish provisions allowing for unlimited pretrial detention; the court’s response remained pending at the end of November.

As of December 2016, a total of 3,646 persons were held in pretrial detention, amounting to 20.6 percent of the total prison population, according to the 2016 Yearbook of the National Prison Administration.

The presence of defense counsel at hearings related to pretrial detention is not mandatory.

Detainee’s Ability to Challenge Lawfulness of Detention before a Court: The defendant, may at any point move for release from pretrial detention. Any person who believes that a short-term arrest violated his or her fundamental rights may file

a complaint with the police unit responsible or with the Independent Police Complaints Board.

The law provides that persons held in pretrial detention or under house arrest and later acquitted may receive monetary compensation.

#### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary. Courts often functioned independently. Laws modifying the judicial system adopted in 2011-13 restricted the competence of the Constitutional Court, altered the rules for electing Constitutional Court justices, and vested the president of the National Office for the Judiciary, a position appointed by parliament, with significant decision-making power.

The Constitutional Court does not have competence to review the constitutionality of legislation with budgetary impact if the legislation is adopted when the state debt exceeds 50 percent of GDP. This limitation remains in effect for previously adopted laws, even if the state debt were to fall below 50 percent.

The law provides that a committee consisting of members of party factions proportionate to their representation in parliament has the right to nominate a Constitutional Court justice. A two-thirds majority in parliament must ratify a nominee in order to be elected to that court.

In December 2015 the International Bar Association's Human Rights Institute (IBAHRI) released a report that criticized the reduced authority of the Constitutional Court. The IBAHRI also concluded that the National Judicial Council lacked sufficient authority to oversee the president of the National Office for the Judiciary adequately.

During the year Transparency International Hungary (TI-H) criticized the right of the prosecutor general to give instructions to subordinate prosecutors in individual cases, to take over any case from any prosecutor, and to reassign cases to different prosecutors at any stage of the procedure without providing any reasoning. In July 2015 the Group of States against Corruption of the Council of Europe released a report expressing concern that the prosecutor general may remain in office indefinitely after the expiration of his or her nine-year term until parliament elects a successor by a two-thirds majority vote.

## **Trial Procedures**

The constitution and law provide for the right to a fair public trial, and the judiciary generally enforced this right.

Defendants are presumed innocent until proven guilty. Suspects have the right to be informed promptly of the nature of charges against them and of the applicable legal regulations, with free interpretation as necessary. Trial proceedings are public, although a judge may minimize public attendance and may order closed hearings under certain conditions. Trials generally occurred without undue delay. Defendants have the right to be present at their trial.

The law stipulates that the investigating authority shall schedule the interrogation to enable defendants to exercise their right to a defense. A summons for a court hearing must be delivered at least five days prior to the hearing. Defendants have the right to free interpretation from the moment charged. Defendants may challenge or question witnesses and present witnesses and evidence on their own behalf. The law states that no one may be compelled to provide self-incriminating testimony or produce self-incriminating evidence. Defendants have the right of appeal.

Human rights NGOs continued to criticize the legal framework that allows the prosecution and incarceration of juveniles under certain circumstances. The criminal code sets 12 as the minimum age at which authorities may prosecute juveniles for homicide, voluntary manslaughter, grievous assault, robbery, or plundering, if they had the capacity to understand its consequences. Courts may not impose prison sentences on juveniles that were between the ages of 12 and 14 when committing the offense, but may order placement in a juvenile correctional institute.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

By law individuals or organizations may seek civil remedies for human rights violations through domestic courts. Individuals or organizations who have exhausted domestic legal remedies regarding violations of the European

Convention on Human Rights allegedly committed by the state may appeal to the ECHR for redress.

### **Property Restitution**

Communal property restitution in Hungary was completed years ago based on a law that allowed religious organizations to claim previously owned properties that were confiscated after January 1946. Private property restitution is still ongoing. Holocaust survivors from Hungary receive pension supplements. In Hungary the 1947 Paris Peace Treaty regulates the restitution of heirless Jewish properties. In 2007 the government pledged and subsequently distributed \$21 million to assist Holocaust survivors in Hungary and survivors of Hungarian origin living abroad as an advance payment on an expected, subsequent agreement that would provide more comprehensive compensation. The Jewish Heritage of Hungary Public Endowment, a restitution foundation in Hungary composed of local Hungarian Jews, government officials and the World Jewish Restitution Organization (WJRO), administered one-third of the funds to survivors currently living in Hungary, while two-thirds were transferred to the Claims Conference to fund social welfare services for survivors in need living outside of Hungary. In August 2016 the government released a long-awaited research report on heirless property and is currently working with WJRO experts on a roadmap for completing the research and determining the value of unreturned heirless property in Hungary. The government has laws and/or mechanisms in place, and NGOs and advocacy groups reported that based on these steps the government made some progress on the resolution of Holocaust-era claims.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, and there were no reports the government failed to respect these prohibitions.

There is no requirement for prior judicial authorization of surveillance by the TEK and sometimes by the national intelligence services in cases related to national security that involve terrorism. In such cases the minister of justice may permit covert intelligence action for 90 days, with a possibility of extension. Such intelligence collection may involve secret house searches, surveillance with recording devices, opening of letters and parcels, and checking and recording electronic or computerized communications without the consent of the persons under investigation. This decision is not subject to appeal.

In January 2016 the ECHR ruled that the law authorizing the surveillance of citizens by law enforcement bodies without court approval constituted a violation of the right to privacy. Prior to the ECHR's verdict, a 2013 ruling of the Constitutional Court found sufficient that external control over any surveillance authorized by the minister was supervised by parliament's National Security Committee and the ombudsman. During the year parliament mandated that the National Authority for Data Protection and Freedom of Information supervise this kind of surveillance.

In July the Supreme Court accepted an explanation from Budapest city prosecutors as to why they terminated an investigation into a bugging scandal at public media service organization. The Supreme Court agreed that it is not a crime to collect data by eavesdropping, in any public or private workplace, although secret collection of data in homes is illegal. The Office of the Chief Prosecutor stated that the law should be expanded with a broader definition of illegal data collection to protect work places as well.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for members of the press, and the media were active and expressed a wide range of views, although there were some formal restrictions on content related to "hate speech", and allegations that government action helped consolidate media outlets in the hands of progovernment owners.

Freedom of Expression: The law provides that any person who publicly incites hatred against any national, ethnic, racial, or religious group or certain other designated groups of the population may be prosecuted and convicted of a felony punishable by imprisonment for up to three years. The constitution includes hate speech provisions to "protect the dignity of the Hungarian nation or of any national, ethnic, racial, or religious community." The public denial of, expression of, doubt about, or minimization of the Holocaust, genocide, and other crimes of the National Socialist (Nazi) and communist regimes is prohibited by law and is punishable by a maximum sentence of three years in prison. The law also prohibits as a petty offense the wearing, exhibiting, or promoting of the swastika, the logo of the Nazi SS, the symbols of the Arrow Cross, the hammer and sickle, or the five-pointed red star in a way that harms human dignity or the memory of the victims of

dictatorships. Judicial remedies exist for damage to individuals and communities that results from hate speech.

According to the Action and Protection Foundation (TEV), in the first six months of the year there were 16 instances of anti-Semitic hate speech. TEV filed police reports in two of the cases; police action on the cases was still pending at year's end. On August 24, Budapest district prosecutors pressed charges against a Budapest-based book publisher for the public denial of the crimes of the Nazi regime based on his publication of a translation of a book written by a Swedish author. The prosecutors also requested the permanent removal of the publisher's website and related websites that were blocked by an initial court ruling in 2016. The case was pending at year's end.

On June 23, parliament passed a law prohibiting discounted pricing of billboard space for state-financed entities, including political parties. Opposition parties charged that the law was specifically designed to limit their expression, noting that the law was introduced shortly after the opposition party Jobbik launched a campaign criticizing the government as corrupt on billboards provided to the party at a discount by a businessman critical of the government. Opposition parties' legal challenge in the Constitutional Court against the amended law remained pending at year's end.

Press and Media Freedom: Independent media were active and expressed a wide variety of views without formal restriction. A massive consolidation in the media market that started in 2015 continued during the year, resulting in further expansion of government-friendly enterprises and reduction in other media voices in radio, print, and online media, especially outside of Budapest. In August and September, individuals friendly to the government purchased the last remaining independent regional newspapers, placing all 18 regional daily newspapers in the hands of progovernment owners. According to independent press and NGO reports, the state body responsible for media, the National Media and Information Authority (NMHH), facilitated further media concentration by favoring bidders close to the government in frequency tenders for regional radio stations. The NMHH tender documents leaked or partially provided to the press via freedom of information act requests suggested that on a number of occasions the NMHH overrode regulations in order to allow actors with close ties to the government to win the tender.

The NMHH, subordinate to parliament, is the central state administrative body for regulating the media. The authority of the NMHH includes overseeing the

operation of broadcast and media markets as well as “contributing to the execution of the government’s policy in the areas of frequency management and telecommunications.” The NMHH president serves as the chair of the five-member Media Council, which is the decision-making body of the NMHH and supervises broadcast, cable, online, and print media content and spectrum management. The NMHH consisted exclusively of persons named by the governing parties.

The state news agency, MTI, is established by law and is mandated to provide balanced, objective, nonpartisan coverage. Media watchdogs and independent outlets criticized the state media, for concealing facts and opinions unfavorable to the government.

In 2016 the Center for Media Pluralism and Media Freedom (CMPF) reported that the government effectively subsidized private media through advertising by ministries and state-owned companies. According to the CMPF, government advertising contracts favored media outlets allied or linked with the government and the ruling Fidesz party.

Since 2010 National Assembly speaker Laszlo Kover has temporarily suspended parliamentary access to several dozen people, mainly journalists, for alleged violation of parliamentary rules regulating activities such as press coverage inside the building. In May the Hungarian Association of Journalists criticized Kover for banning 60 individuals, most of them journalists, from parliament. The Hungarian Civil Liberties Union (HCLU)’s November 2016 appeal to the ECHR to overturn Kover’s decision to ban certain journalists from parliament remained pending.

Violence and Harassment: There were no reports of violence against journalists or of physical or legal harassment. Nevertheless, written and verbal harassment were commonplace.

The government characterized Hungarian-American business executive George Soros as the mastermind behind opposition political parties and various purported plots against the government. (see also Sections 2.b. on Academic Freedom, 2.d. on Freedom of Movement, 5 on Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Abuses of Human Rights, and 6 on Anti-Semitism).

On July 22, Prime Minister Orban gave a speech in which he criticized media outlets purportedly operated by “Soros’s mafia network.” Fidesz politicians have

repeatedly stated that journalists of the “Soros media” were not real journalists but rather Soros agents.

On September 5, the online news site 888.hu, which has close ties to the government, published a sharply critical piece in which it listed eight journalists by name and accused them of being “Soros propagandists.”

Censorship or Content Restrictions: The law provides content regulations and standards for journalistic rights, ethics, and norms that are applicable to all media, including news portals and online publications. It prohibits inciting hatred against nations; communities; ethnic, linguistic, or other minorities; majority groups; and churches or religious groups. It provides for maintaining the confidentiality of sources with respect to procedures conducted by courts or authorities.

The law mandates that every media service provider that delivers news to the public must report in a balanced manner, and states in particular that public service media providers should pursue balanced, accurate, detailed, objective, and responsible news and information services. These requirements were widely disregarded, including by the public media.

The Media Council may impose fines for violations of content regulations, including on media services that violate prohibitions on inciting hatred or violating human dignity or regulations governing the protection of minors. The council may impose fines of up to 200 million forints (\$720,000), depending on the nature of the infringement, type of media service, and audience size. It may also suspend the right to broadcast for up to one week. Defendants may appeal Media Council decisions but must appeal separately to prevent implementation of fines while the parties litigate the substantive appeal.

As of September 1, the Media Council issued 43 resolutions concerning various alleged violations of the media law, imposing fines totaling 8,030,600 forints (\$28,900) on 36 media service providers. The most common citations were for unlawful advertising methods violating the dignity of a person or group.

Libel/Slander Laws: Journalists reporting on an event may be judged criminally responsible for making or reporting false statements. Individuals may be sued for libel for their published statements or for publicizing libelous statements made by others. Plaintiffs may litigate in both civil and criminal courts.

Public officials continued to use libel and defamation laws in response to criticism from citizens and journalists, and the HCLU reported that the libel laws had a chilling effect on journalists reporting about politicians. The courts, however, tended to rule in favor of freedom of expression, asserting that this liberty overrides other considerations. On September 19, the Supreme Court ruled against Chief Prosecutor Peter Polt in his defamation lawsuit against opposition politician Viktor Szigetvari. Szigetvari had called Polt “a partner in crime” and his agency “Fidesz’s prosecutor’s office” in connection with a brokerage scandal. The court ruled that Szigetvari was expressing an opinion, which needs not be proven true and is protected under the law.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet and generally did not censor online content. There were no substantiated reports that the government monitored private online communications without appropriate legal authority.

In cooperation with internet service providers, the NMHH maintains a Database of Central Electronic Unavailability Resolutions intended to block websites that violate the law, including content-related legislation. The system also blocks websites suspected of violating such laws, based on preliminary court rulings. The database is not public. NGOs criticized the system for its lack of transparency.

According to the International Telecommunication Union, 79.3 percent of the population used the internet.

### **Academic Freedom and Cultural Events**

On April 4, parliament used a fast-track procedure to amend the higher education law regarding the operation of foreign universities in the country, widely seen as an attempt to close the U.S.-Hungarian Central European University (CEU), which George Soros founded in 1991. The amendment included a provision requiring universities from non-EU countries operating in Hungary to have a physical presence in their countries of origin, operate under an intergovernmental agreement between Hungary and the other country of accreditation, and ensure that the name of the university in Hungarian reflects an exact translation of the name in the country of origin. Three U.S.-accredited universities active in the country were found to violate the new requirements, but only one--the CEU--was found in violation of all three criteria. Public statements by government officials including

the prime minister called the CEU “Soros University” and characterized it as a threat to the nation.

On August 11, a preliminary decision by the Venice Commission (VC) called on the government to exempt foreign universities already operating in the country from the obligation to provide education in their country of origin and challenged other provisions. The VC endorsed the preliminary opinion on October 6. A suit challenging aspects of the law was also filed in the Constitutional Court. The case remained pending at year’s end.

The CEU worked with the government to reach an agreement that would allow the CEU to comply with the law. On October 3, the CEU announced it had signed an agreement with a foreign college to provide educational services in the United States, thereby satisfying the final key condition of the legislation. On October 17, parliament voted to extend until 2019 the deadline for foreign higher education institutions to comply with the amended higher education law. Government officials pointed to the extension as responding in part to the VC’s opinion. High-ranking Fidesz officials told the media the government extended the deadline to avoid having to make a gesture toward the CEU before next year’s elections and during Fidesz’s national campaign against “Soros’ dangerous plan.”

In September media reported that the University of Debrecen’s rector would conduct an inquiry into departments that publicly criticized the university’s decision in August to award Russian President Vladimir Putin the title of “honorary citizen.”

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Peaceful Assembly**

The constitution and law provide for the freedom of peaceful assembly, and the government generally respected this right. By law demonstrations do not require a police permit, but event organizers must inform police of a planned assembly in a public place at least three days in advance. The law authorizes police to prohibit any gathering if it seriously endangers the peaceful operation of representative bodies or courts or if it is not possible to provide for alternate routes for traffic. Police may not disband a spontaneous, unauthorized assembly that remains peaceful and is aimed at expressing opinion on an event that was unforeseeable, but organizers must inform police without delay after the organizing has begun. Police are required to disband an assembly if it commits a crime or incites the

commission of a crime, results in the violation of the rights of others, involves armed participants, or is held despite a preliminary official ban. A police decision to prohibit or disband a public demonstration is open for judicial review.

In 2016 parliament amended the law to introduce new police measures in case of a terrorist attack or the preparation of such, including the right to disband public events in the geographic area affected by the terrorist act.

The president of the opposition Together party, Peter Juhasz, stated that police impermissibly prohibited his party's planned demonstration outside the National Museum on March 15, a public holiday commemorating the 1848-49 Hungarian revolution against Austrian-Habsburg rule. In October 2016 Together blew whistles as Prime Minister Orban spoke on parliament's Kossuth Square, and the party planned to disrupt his speech the same way at the March public commemoration. A court decision shortly before the event overruled the prohibition and Together was able to demonstrate legally.

### **Freedom of Association**

The constitution and the law provide for freedom of association, and the government generally respected it, with notable exceptions.

During the year the government passed legislation that placed additional restrictions on NGOs that receive funding from abroad (see section 5).

On June 10, police conducted a raid during a workshop on the industrial use of cannabis hosted by the Aurora Community Center, which served as an office for several NGOs and was run by a Jewish youth organization. Police questioned several individuals and confiscated a small amount of marijuana. On June 28, the local municipality revoked the center's license to operate its bar and cafe, which provided most of the center's revenue. On August 22, the Budapest City Government Office declared the center's closure unlawful and allowed it to reopen and resume its activities.

The Fidesz-dominated city assembly of Pecs passed a resolution December 14 calling on local residents, businesses, and organizations not to rent or provide any space within the city to the NGO With the Strength of Humanity (WSH) because it received an approximately \$490,000 grant from the Open Society Foundations to support community building in the region. The WSH provided human rights education programs since 2006 and assisted children in poverty for seven years.

City Mayor Zsolt Pava characterized the WSH's purpose as to bring about a local government that, by "settling hundreds of thousands of migrants, would establish an Islamized state." On December 14, a landlord that had committed to subleasing office space to the WSH demanded severance of the agreement and the NGO consented.

After a 2011 law on religion deregistered more than 300 religious groups and organizations which had previously had incorporated church status, they were required to reapply for registration, and only a small percentage were approved.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Abuse of Migrants, Refugees, and Stateless Persons: Human rights advocates, the UN High Commissioner for Refugees (UNHCR), and the European Commission (EC) criticized the government's treatment of asylum seekers.

In an article published in the Swedish newspaper *Aftonbladet*, refugees sheltering near the Serbian-Hungarian border and representatives of medical charity Doctors without Borders recounted incidents of violence by government officers against asylum seekers and migrants who had entered the country illegally. Migrants and asylum seekers were reportedly pushed back to the external side of the border fence on the Serbian-Hungarian border, even if they had not entered Hungary through Serbia. Similar cases were documented by UNHCR, the Catholic Relief Services, the Jesuit Refugee Service, Human Rights Watch, and the Hungarian Helsinki Committee. In December the German human rights NGO Rigardu launched a website documenting allegations of police violence against refugees and migrants attempting to cross from Serbia to Hungary and Croatia.

In April the Ministry of Interior announced the dismissal of a police officer after finding him guilty of injuring a migrant at the border. In a press statement, Minister of Interior Sandor Pinter stated that prosecutors investigated all complaints of abuse. According to a statement by the Office of the Prosecutor

General, in two cases police officers were convicted and fined for committing abuses against migrants at the border. In May prosecutors detained 32 police officers assigned to patrol the country's border for accepting bribes on the job. The prosecution ordered the custodial arrest of 10 suspects.

The law permits the detention of rejected asylum seekers for a maximum of 12 months (30 days in cases of families with children). Immigration detention generally took place in immigration detention centers.

The law also allows for the detention of asylum seekers whose asylum procedure is pending. On March 28, new regulations prescribed the automatic detention of asylum seekers in the transit zones. NGOs continued to criticize the general practice of placing handcuffs and leashes on asylum-seeker detainees when they were escorted outside of detention center premises. Migrants detained in the Nyirbator Immigration Detention Center in northeast Hungary repeatedly complained about mistreatment and constant verbal abuse by certain shifts of armed security guards.

### **Protection of Refugees**

**Refoulement:** Two asylum seekers, Ilias Ilias and Ali Ahmed, filed suit against the government in 2015, sought release from the transit zone, and asked that officials halt their expulsion to Serbia. Authorities kept them in the transit zone for more than three weeks before sending them back to Serbia in October 2016. In March the ECHR ruled their return unlawful, and in September the government appealed the ruling.

Access to Asylum: The law provided for asylum and established a procedure for persons in the country to apply for it, but often little or no opportunity to apply was actually afforded. Beginning March 28, police were allowed to push back to the Serbian side of the border fence any migrants who could not prove their right to stay in the country, regardless of whether or not they entered the country from Serbia. Persons who were "pushed back" were not allowed to file asylum claims while in Hungary, regardless of where they were encountered or how long they were in the country. A similar rule was already in place since July 2016, but was limited to irregular migrants apprehended within an eight kilometer (five-mile) zone on the border. The amendment extended the geographical scope of the rule to Hungary's entire territory.

NGOs in Serbia reported the migrants lacked access to any judicial remedy.

The new asylum law (adopted on March 7 and in effect since March 28) also requires mandatory detention of all asylum seekers (other than unaccompanied minors under the age of 14). Pursuant to the law, all new asylum seekers were detained in guarded transit zone camps on the Serbian-Hungarian border that they could not leave without abandoning their asylum claims. Since February each of the two transit zone camps accepted only five applications per working day (in the case of large families more than five applications may be accepted, but the number accepted on following days was reduced accordingly).

In the first 11 months of the year, 3,187 applications for asylum were filed, while police reported 8,598 push-backs during the same period.

According to official statistics, in the first 11 months of the year, authorities granted protection to 1,075 asylum seekers. Of these, the government granted refugee status to 95 persons and “subsidiary protection” status to 980. Authorities rejected 2,761 applications. NGOs said the Immigration and Asylum Office in several cases unduly substituted refugee status with subsidiary protection, as the latter does not include the possibility of family reunification under preferential conditions. During this period the majority of asylum seekers (83 percent) came from countries that had experienced war and terrorism, including Syria (17 percent), Afghanistan (42 percent), Iraq (23 percent), and Somalia (0.3 percent). Children made up 46 percent of asylum seekers, and women 36 percent.

On April 10, UN High Commissioner for Refugees Filippo Grandi called on EU member countries to suspend all transfers of asylum seekers to the country “until the Hungarian authorities bring their practices and policies in line with European and international law.”

The government provided UNHCR and the International Federation of Red Cross with broad access to refugees and asylum seekers and maintained what UNHCR characterized as a good stateless-person determination process. In contrast, cooperation with UNHCR and other humanitarian organizations in providing protection and assistance (as opposed to access) varied (also see Access to Basic Services, below). Access by other humanitarian organizations was more limited. Several Hungarian charity NGOs enjoyed broad access to refugees and asylum seekers (although they were informed that their access would be significantly restricted after December 31). A few NGOs were provided access only when asylum seekers requested their assistance by name in certain cases (for example, legal representation). Other NGOs were not provided any access.

Safe Country of Origin/Transit: The government issued lists of “safe countries of origin” and “safe third countries.” Both lists included EU member and candidate states (including Serbia), member states of the European Economic Area, Bosnia and Herzegovina, Kosovo, Switzerland, Canada, Australia, New Zealand, and those states of the United States that do not apply the death penalty. UNHCR repeatedly objected to the government’s recognition of Serbia as a safe transit country.

Freedom of Movement: In February the government announced that camps capable of hosting 200-300 persons would be set up at the country’s southern border with Serbia, where asylum seekers would be required to wait while their requests for refugee status were processed. The government announced its intention to close all other refugee reception centers around the country; as of the end of November, the tent camp for asylum seekers in Kormend was closed and the remaining open reception centers in Kiskunhalas and Vamosszabadi hosted just a few applicants who filed their asylum application before the new regulation entered into force in March (the latter was also used to host for 30 days those granted international protection in the transit zones). The government closed the larger, long-functioning open reception centers of Debrecen and Bicske in 2015 and 2016, respectively, as part of a policy to shift from open shelters to detention centers.

UN Human Rights Commissioner Zeid Ra’ad al-Husseini wrote in an annual report to the UN Human Rights Council that the legislation passed by parliament “falls far short of international norms,” as it requires that all asylum seekers must be held in detention in the same area for the entire duration of the asylum procedure.

Access to Basic Services: In 2016 parliament amended the law to reduce benefits and assistance to those given international protection on the grounds that they should not have more advantages than Hungarian citizens. The law’s provisions included the introduction of mandatory and automatic revision of refugee status at least every three years; reduction of the maximum period of stay in open reception centers after recognition from 60 to 30 days; reduction of the eligibility period for basic health care services following recognition from one year to six months; and termination of housing allowances, educational allowances, and monthly cash allowances previously provided to asylum seekers and beneficiaries of subsidiary protection.

The two transit zones for migrants detained during the processing of their asylum applications provided clothes, soap, meals, water, and shelter. Some educational

and social activities for children, as well as supplemental nutrition, were provided by several charities. The government informed charities in October, however, that the grant funding their services would be terminated by the end of the year and not renewed until after the election expected in April 2018. The government provided basic medical assistance on site but did not offer any mental health assistance; those in need of psychological assistance and/or therapy did not have access to such services while in detention. Interpretation was not provided during medical examinations. The Cordelia Foundation for the Rehabilitation of Torture Victims, the only medical NGO in the country providing professional psychotherapeutic care for traumatized asylum seekers, was denied access to the transit zones, leaving several torture victims and asylum seekers suffering from posttraumatic stress disorder without specialized care.

Durable Solutions: Refugees are allowed to seek naturalization, but research by the HHC in 2015 (commissioned by UNHCR) found that the applications of refugees and stateless persons were approved at a dramatically lower rate than those of other naturalization seekers. High fees (for example for certified translations) made the naturalization process more difficult. The government applied preferential conditions to applicants with Hungarian ancestry (via the so-called simplified naturalization process), but not to refugees or stateless persons. The HHC criticized the procedural framework for naturalization, noting decisions are not explained to applicants and no appeal is allowed against rejection.

There were no reported cases of onward refugee resettlement from the country to other states.

Temporary Protection: The law provides for a specific temporary protection status for situations of mass influx. Under the law all forms of international protection (refugee status, subsidiary protection, tolerated stay, stateless status, etc.) are temporary by nature, with periodic review of the entitlement to protection.

### **Stateless Persons**

The country operates a dedicated statelessness determination procedure and provides a humanitarian residence permit to persons recognized as stateless. In 2015 the Constitutional Court quashed a domestic law that required lawful stay as a precondition for applying for stateless status.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in periodic elections held by secret ballot and based on universal suffrage.

### **Elections and Political Participation**

Recent Elections: The most recent national elections were held in 2014 under a single-round national system to elect 199 members of parliament. The elections resulted in the ruling parties gaining a second consecutive two-thirds supermajority in parliament, receiving 45 percent of party-list votes while winning 96 of the country's 106 single-member districts, allocated through a first-past-the-post system. In 2015 the governing coalition lost its two-thirds majority in parliament following a by-election in Veszprem.

A mission representing the OSCE Office for Democratic Institutions and Human Rights (ODIHR) observed the 2014 elections. In its final report on the elections, the mission concluded that, while the elections were efficiently administered and offered voters a diverse choice following an inclusive candidate registration process, “the main governing party enjoyed an undue advantage because of restrictive campaign regulations, biased media coverage, and campaign activities that blurred the separation between political party and the state.”

The 2014 ODIHR election observation mission report noted that the process of redistricting constituencies was widely criticized “for lacking transparency, independence, and consultation, and allegations of gerrymandering were widespread.” The report found that the practice of transferring surplus votes of constituency winners to party lists resulted in the ruling Fidesz-KDNP coalition's gaining six additional seats.

Political Parties and Political Participation: In its 2014 report, the ODIHR observation mission reported several problems with media influence, including the increasing ownership of media outlets by businesspersons directly or indirectly associated with Fidesz and the allocation of state advertising to select media outlets. It concluded that these factors undermined the pluralism of the media and increased self-censorship among journalists. The report also criticized the use of government advertisements that were almost identical to those of Fidesz campaign advertisements, claiming that they contributed to an uneven playing field and did not fully respect the principle of separation of party and state. The ODIHR mission noted the limited amount of free broadcast time available for candidates and the absence of paid political advertising on nationwide commercial television. It concluded that this situation impeded candidates' ability to campaign via the

media. The report also criticized campaign-financing laws that limited the transparency and accountability of political parties and expressed concern over the lack of effective redress for complaints filed during the electoral process.

Citizens living abroad but having permanent residency in the country were required to appear in person at embassies to vote, while citizens not having domestic residency could vote by mail, but only for party lists. ODIHR election observers noted that the practice of applying different procedures to register and vote depending on whether or not a person had a permanent address in the country resulted in unequal treatment of voters outside the country.

In 2015 the ECHR rejected the application of citizens living abroad but having permanent residency in the country, who objected that they were compelled to appear in person at embassies to vote, while dual citizens not having residency in the country could vote by mail. In April 2016 the Constitutional Court rejected a constitutional complaint on similar grounds and concluded that the contested legal provision was not discriminatory, since those without an address in the country could only vote for party lists.

Participation of Women and Minorities: No laws limit participation of women and members of minorities in the political process. Representation of women in public life, however, was very low. Women constituted 10 percent of members of parliament, and there were no female ministers. Only 13 percent of sub-cabinet-level government state secretaries were women. In May 2016 the UN Working Group on the Issue of Discrimination against Women in Law and in Practice, in a statement following an official visit, noted “pervasive and severe gender stereotyping of women which undoubtedly contributed to their low level of political participation.” The working group expressed concern over “some public officials who legitimize and justify the low representation of women in politics.”

The electoral system provides 13 recognized national minorities the possibility of registering for a separate minority voting process in parliamentary elections. While all 13 national minorities registered candidate lists, none obtained enough votes in 2014 to win a minority seat in parliament. As a result, each nationality was represented in parliament by a nonvoting spokesperson whose competence was limited to discussing minority issues. The ODIHR report on the 2014 elections concluded that, because voters publicly registered to vote for minority lists and such lists give only one choice of candidate on the ballot, their choice was limited, and the secrecy of their vote violated. Due to privacy laws regarding

ethnic data, no statistics were available on the number of members of a minority who were in parliament or the cabinet.

#### **Section 4. Corruption and Lack of Transparency in Government**

While the law provides criminal penalties for corruption by officials, the EC and NGOs contended that the government did not implement these laws effectively, and that officials often engaged in corrupt practices with impunity. The same observers noted that authorities were consistently reluctant to investigate corruption allegations in a transparent, public manner.

**Corruption:** During the year, the NGOs TI-H and K-Monitor characterized the economy as “dominated by cronyism and state capitalism,” and that in many cases “the government used state power to grant privileges to certain economic actors.” TI-H noted that there was no designated anticorruption agency and that agencies with anticorruption duties, such as the prosecution service, the State Audit Office, police, and the tax administration, often failed to take action against corruption.

Anticorruption watchdogs criticized the government’s Residency Bond Program, and the government suspended the program on March 31. Under the program, individuals from non-EU countries may receive residency if they invest a minimum of \$360,000 in Hungarian securities and pay an accompanying service fee. Investors were required to hold the securities for five years and to purchase them from exclusive brokers assigned to different geographical regions. Transparency experts identified the broker-network established by parliament to market the securities as a serious corruption risk. Brokers received approximately \$60,000 in service fees paid by investors per residency visa, as well as a 10-percent discount on the face value of the security, valued at approximately \$34,000, that they purchased from the government and held for the investor. The ownership structures and beneficiaries of the profits were opaque, since most of the brokerages were holding companies established in offshore jurisdictions. TI-H observed that intermediary organizations acted as special purpose vehicles designed to hide the substantial profits generated from the visas. Since the program started in 2012 through June 30, brokers sold a total of 6,621 residency bonds. Transparency experts estimated that brokers captured hundreds of millions of dollars in revenue from the preferential sales structure. They noted that, since the intermediaries were incorporated mostly offshore, their financial statements were not audited by government officials and their profits were not taxed in the country. Local press tied government officials and insiders to the executives and shareholders of the brokerages.

In December 2016 the government withdrew from the international transparency organization the Open Government Partnership (OGP) after an OGP investigation determined that NGO complaints of government harassment had merit. The government rejected the OGP report's conclusions and instead canceled its membership in the organization.

On May 31, the EU Antifraud Office (OLAF) issued a report stating it completed 13 investigations in the country during 2016 and recommended that domestic prosecutors open investigations in 11 of them. As a result of irregularities, OLAF recommended that the government return to the EC 4.16 percent of all agricultural and structural funds it had received from the EC. Between 2009 and 2016, OLAF made 31 recommendations for prosecution. Prosecutors issued an indictment in three cases, dismissed six cases, and had a pending judgment in 22 cases.

Anticorruption NGOs also alleged government corruption and favoritism in the distribution of EU funds. The Corruption Research Center Budapest (CRCB) published several studies that identified bid-rigging and other corruption risk indicators in public tenders with EU funding. The CRCB concluded that companies with close links to the government faced significantly less competition and were able to obtain higher prices when bidding for EU-funded projects. The CRCB determined that favoritism was strongest in the construction sector.

Financial Disclosure: The law requires members of parliament, senior government officials, the president of the Curia and his deputies, and the prosecutor general to publish asset declarations on a regular basis. Asset declarations by cabinet members' spouses were not made public. The vast majority of public-sector employees, including law enforcement and army officers, judges, prosecutors, civil servants, and public servants, were obliged to submit asset declarations, which are not accessible by the public. NGOs noted there were no criminal or administrative sanctions for submitting inaccurate asset declarations and argued that there was no effective method to detect violators.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

On June 13, parliament passed the Law on the Transparency of Organizations Receiving Support from Abroad, which observers referred to as the "NGO Law." It requires NGOs that receive over 7.2 million forints (\$26,000) per year in funding from abroad to register as foreign-funded organizations and to publish their

“foreign-funded” status on their websites and publications. The law also required NGOs to publicly identify any foreign donor who contributed 500,000 forints (\$1,800) or more per year to the organization. The first filing deadline under the law is May 2018. These requirements were added to existing reporting obligations that require all civil society organizations to submit annual financial reports detailing their funding by source and the way it was spent. EU funds that were not distributed through state budgetary institutions qualified as foreign funding. The legislation exempts sports, religious, and national minority associations.

Several NGOs including the Hungarian Helsinki Committee, the Hungarian Civil Liberties Union, Amnesty International Hungary, and K-Monitor announced publicly soon after passage of the law that they would not register under the NGO Law pending the outcome of legal challenges. The opposition party Politics Can Be Different (LMP) and 23 organizations filed complaints to challenge the law at the Constitutional Court. The case remained pending at year’s end.

On July 13, the EC initiated an infringement procedure against the country over the NGO Law. The commission asserted that the law unduly interfered with freedom of association. It argued that the new act could impede NGOs in collecting donations, restricting their ability to perform their tasks. It further claimed that “the new registration, reporting, and publicity requirements foreseen by the law are discriminatory and create an administrative and reputational burden for these organizations,” in part because it required NGOs to provide detailed information about donors and their contributions, which can then be made public by authorities.

The preliminary opinion of the VC on June 2 found that, while the stated aims of the legislation to provide transparency and combat money laundering were valid, the law contained several elements of concern. The VC noted that “although the label ‘organization receiving support from abroad’ objectively appears to be neutral and descriptive compared, in particular, to the label of ‘foreign agent,’ it should be emphasized that placed in the context prevailing in Hungary, marked by strong political statements against associations receiving support from abroad, this label risks to adversely affect their legitimate activities.”

On June 16, the VC issued a final opinion in which it established that, despite some parliamentary modifications to the NGO Law, the legislation would still cause disproportionate and unnecessary interference with the freedoms of association and expression, right to privacy, and the prohibition of discrimination. It opined that the legitimate goals of preventing unauthorized foreign influence in politics, money laundering, and financing of terrorism may not be used to stigmatize

nongovernmental bodies or restrict their activities. The VC determined that the exceptions for sports and religious associations as well as ethnic minority organizations decreased the credibility of the government's position. The provision obliging NGOs to include information about financing from abroad in all its publications was held "unnecessary and disproportionate in a democratic society."

During the year the government terminated long-standing cooperation agreements with some NGOs. The National Police Headquarters, National Penitentiary Headquarters, and Immigration and Asylum Office (BAH) terminated cooperation agreements with the HHC, agreements that had allowed access to places of detention for purposes of monitoring. Termination of the BAH agreement, which allowed access and monitoring visits to reception centers for asylum seekers and to asylum jails, entered into effect on June 10. The government also terminated the tripartite agreement between HHC, the Central Regional Office of UNHCR, and National Police Headquarters providing access to foreign detainees and legal assistance to detainees, a decision that entered into force on October 5. The National Penitentiary also reportedly terminated cooperation agreements with the Hungarian Red Cross, and with Speak Out Association, an NGO that operated prison radio channels. Minister of Interior Sandor Pinter in November stated that the Ministry and authorities falling under its supervision do not maintain cooperation agreements with NGOs that openly refused to comply with the NGO law. The Christian Democrats' (coalition partner with governing Fidesz) youth organization on November 2 reported to the Budapest Prosecutor's Office NGOs that refused to register as foreign-funded organizations.

In January Fidesz vice president Szilard Nemeth declared that NGOs supported by George Soros must be "cleared out," and that it was unacceptable that NGOs attack the government's position regarding illegal immigration. Government officials publicly named the HHC, the Hungarian Civil Liberties Union, and Transparency International Hungary as targets of the NGO Law. In November, weekly *Figyelo*, which is close to the government, published an issue with a cover featuring the names of the HHC and Migration Aid over the flag of the Islamic State, followed by the Hungarian text "Warriors are coming to Europe."

NGOs affected by the legislation were frequent targets of media attacks by pro-government outlets. In a June case that went to the Supreme Court, the HHC won a civil lawsuit against the ruling Fidesz party for damage to its good reputation. In 2015 Fidesz representatives published allegations claiming that the "bogus NGO the Helsinki Committee, which obeys the political orders of international

speculator financial capital, arrogantly tries to falsify black and white data as well.” A court held that the party had repeatedly violated the HHC’s right to good reputation and ordered Fidesz to issue a public apology and pay a 1 million forint (\$3,600) penalty in June 2016. On appeal, the Supreme Court during the year upheld the penalty and called on Fidesz to abstain from similar violations of law. The party paid the penalty but did not apologize until HHC requested a court order. Fidesz issued a public apology at the beginning of December.

Government Human Rights Bodies: The constitution and law establish a unified system for the Office of the Commissioner for Fundamental Rights (ombudsman). The ombudsman has two deputies, one responsible for the rights of national minorities and one for the interests of “future generations” (environmental protection). The ombudsman is proposed by the president and elected by a two-thirds majority of parliament. The ombudsman is solely accountable to parliament and has authority to initiate proceedings to defend the rights of citizens from abuse by government authorities and entities providing public services. The constitution provides that the ombudsman may request a review of laws by the Constitutional Court. The ombudsman is also responsible for collecting electronically submitted reports of public benefit, e.g., whistleblower reports on public corruption. The ombudsman must forward these reports to the appropriate public offices within eight days. Starting in 2015 the ombudsman operated the national preventive mechanism against torture.

The 12-member Judiciary Committee was responsible for covering the human rights and religious portfolio in parliament. The Parliamentary Committee of the Nationalities of Hungary consisted of the spokespersons of the 13 officially recognized ethnic nationalities and was responsible for assessing legislation concerning minorities.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: Rape of men or women, including spousal rape, is illegal. Although there is no crime defined as rape, the equivalent crimes are sexual coercion and sexual violence. These crimes include the exploitation of a person who is unable to express his/her will. Penalties for sexual coercion and sexual violence range from one year in prison to 15 years in aggravated cases.

The criminal code includes “violence within partnership” (domestic violence) as a separate category of offense. Regulations extend prison sentences for assault (light bodily harm) to three years, while grievous bodily harm, violation of personal freedom, or coercion may be punishable by one to five years in prison, if committed against domestic persons.

By law police called to a scene of domestic violence may issue an emergency restraining order valid for three days in lieu of immediately filing charges, while courts may issue up to 60-day “preventive restraining orders” in civil cases, without the option to extend. Women’s rights NGOs continued to criticize the law for not placing sufficient emphasis on the accountability of perpetrators.

The Ministry of Human Capacities continued to operate a 24-hour toll-free hotline for victims of domestic violence and trafficking in persons to provide information and if necessary to coordinate the immediate placement of victims in shelters.

The ministry operated shelters for survivors of domestic violence. The government also sponsored a secret shelter house for severely abused women whose lives were in danger.

NGOs criticized the limited availability of proper victim support services.

Sexual Harassment: According to the law, harassment of a sexual nature constitutes a violation of the equal treatment principle, but is not a crime. According to the EU Fundamental Rights Agency, 42 percent of women interviewed experienced some form of sexual harassment after the age of 15.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: The law provides for the same legal status and rights for women as for men. A Eurostat study from March (based on data from 2014) showed that male executives earned 33.7 percent more than female executives in the same level of job. Women held 41 percent of senior executive positions. In higher education the ratio of women among students was 6.3 percent higher than that of men. According to *The Economist*, the percentage of women on boards of directors was 11 percent.

The Hungarian Women Lobby, the NANE Women's Rights Association, and the Patent Association asserted that Romani women could suffer multiple forms of discrimination on the basis of their gender, ethnicity, and class, experiencing barriers to equal access in education, health care, housing, employment, and justice.

In December 2016 a Romani woman harassed by staff while giving birth at a public hospital in the northeastern city of Miskolc won a case at the Equal Treatment Authority. In February 2016 hospital staff subjected her to verbal harassment and racial slurs. During labor the midwife yelled at her "if you shout once more, I will push the pillow into your face." When the woman apologized, the doctor said to her "if you had shouted once more I would have called the psychiatrist to take the child away and then you wouldn't receive child benefit, because anyway, you gypsies give birth only for the money." The Equal Treatment Authority decided that the hospital violated the woman's dignity and right to equal treatment based on her ethnicity. This was the first case before the authority involving harassment based on ethnicity in the area of health care. The hospital was required to publicize the decision and pay a fine.

## **Children**

Birth Registration: An individual acquires citizenship from a parent who is a citizen. Births were registered immediately. NGOs argued that the law provides only partial safeguards against statelessness at birth because all children of foreign parents born in the country are registered on birth certificates as of unknown nationality. In addition, they argued that children born to stateless parents or to noncitizen parents who cannot pass on their nationality to their children were in some cases born and remained stateless.

Education: Although the law provides for free and compulsory education between the ages of three and 16 and prohibits school segregation, NGOs reported the segregation of Romani children in schools and frequent misdiagnosis of Romani children as mentally disabled.

In November 2016 the Appeals Court of Pecs adopted a decision ordering the desegregation of a Roma-only school in Kaposvar. Despite the judgment, the municipality of Kaposvar, in cooperation with the local school authority and the county government, attempted to restore segregation by allowing and supporting a private foundation to establish a new school in the same building in which the

segregated school was operating. The municipality proposed to offer education in a private school for the Romani children residing in the close vicinity of the building and thus avoid their integration into mainstream schools. The Ministry of Human Capacities intervened to prevent the private school from opening. On October 4, the Supreme Court affirmed the lower court ruling that segregation is illegal and ordered the desegregation of the school.

In 2015 a lawsuit was filed on behalf of 62 children against the municipality of Gyongyospata and the Klebelsberg School Maintenance Center for their segregation in the primary school in Gyongyospata, for damages stemming from the low quality of their education, and for nonpecuniary damages related to their segregation. The lawsuit was pending at year's end.

According to the Roma Education Fund, 20 percent of Romani children attained a secondary school diploma (compared with 80 percent of non-Romani children) and only 2 percent obtained university diplomas in 2015. According to the EC's Roma integration indicators scoreboard (2011-16), the percentage of Romani students ending education and training early decreased from 78 to 68 percent.

Child Abuse: According to experts, approximately 10 percent of children under the age of 18 were beaten or assaulted. Experts generally noted significant regional disparities, with higher rates of child abuse occurring in eastern and northern sections of the country.

Efforts to combat child abuse included a "child protection signaling system" to detect and prevent the endangerment of children, law enforcement and judicial measures, restraining orders, shelters for mothers and their children, and removal of children from homes deemed unsafe. In the example involving the death of an 18-month-old girl in Gyongyos, in September 2016 the ombudsman released a report that established serious and repeated omissions by the pediatrician, the child welfare center, and the guardianship authority in the case, leading to a failure to prevent her death from starvation.

In 2016 parliament amended the law with a provision stating that, if a parent does not "cooperate" with the doctors, district nurses, teachers, or family supporters in the signaling system, it automatically constitutes gross endangerment, even without any other signs of negligence or endangerment.

Early and Forced Marriage: The legal minimum age of marriage is 18. The Social and Guardianship Office may authorize marriages of persons between the ages of 16 and 18.

Sexual Exploitation of Children: Buying sexual services from a child younger than 18 is a crime punishable by up to three years in prison. Forcing a child into prostitution is a crime punishable by up to three years in prison. The law prohibits child pornography. The statute of limitations does not apply to sexual crimes against children. The government generally enforced the law.

The minimum age for consensual sex is 12, provided the older partner is 18 or younger. Persons older than 18 who engage in sexual relations with a minor between the ages of 12 and 14 may be punished by one to five years' imprisonment. By law statutory rape is a felony punishable five to 10 years' imprisonment if the victim is under the age of 12.

Law enforcement authorities arrested and prosecuted children exploited in sex trafficking as misdemeanor offenders. NGOs strongly criticized this practice, which blames the children for "prostituting themselves."

Institutionalized Children: A study in Nograd county commissioned by the European Roma Rights Center published in February 2016 showed that 80 percent of the children in state care in the county were of Romani origin.

The ombudsman expressed concerns that relevant professional experience was not required for persons working in child-care institutions.

NGOs also criticized the lack of special assistance for child victims of human trafficking.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

## **Anti-Semitism**

According to the 2011 census, 10,965 persons identified their religion as Judaism. According to estimates from the World Jewish Congress, the Jewish population

numbered between 35,000 and 120,000 persons. The overwhelming majority of Jews lived in Budapest.

The Brussels Institute, founded by TEV, registered 10 cases of vandalism, one threat, and 37 incidents of hate speech during 2016.

During the year TEV published its 2016 annual report which concluded that approximately one-third of the population held anti-Semitic views.

Numerous extreme websites continued to publish anti-Semitic articles.

As part of the ongoing campaign to portray George Soros as being behind mass migration, in June a government-sponsored billboard campaign featured an enormous picture of Soros. Billboards were defaced with the graffiti “stinking Jew” written on Soros’s face. Jewish groups expressed fear that public discourse targeted against a certain group in the society, like against migrants and Islam, could spread to include other minorities or religious groups.

At the European Parliament in May, Prime Minister Orban described George Soros, as a “financial speculator attacking Hungary” who has “destroyed the lives of millions of Europeans.” Frans Timmermans, vice president of the EC, stated that he found Orban’s language anti-Semitic. Foreign Minister Peter Szijarto publicly asserted that the government’s disputes with George Soros have “absolutely nothing to do” with his Jewish origins.

Jewish groups expressed concerns about Prime Minister Orban’s praise for World War II-era anti-Semites and Hitler allies and about public messaging that could incite anti-Semitism.

On June 17, a bust in tribute to Regent Miklos Horthy was unveiled in the courtyard of Attila Hotel and Restaurant in Budapest’s Third District. Horthy’s bust was also unveiled in the park of the private Zichy-Szechenyi castle in Kaloz, Fejer county, on May 20. In October a bust of Horthy-era politician Gyorgy Donath was erected in the courtyard where he was executed in 1947.

On June 21, Prime Minister Orban asserted that it was due to “exceptional statesmen,” including Regent Horthy and Minister Kuno von Klebelsberg (a former minister of interior and minister of culture during the interwar period who made statements blaming Hungarian Jews for the country’s political instability), that “history did not bury Hungary.” Andras Heisler, president of the Federation of

Jewish Communities of Hungary, responded that Horthy could not be called an “exceptional statesman” due to the era of anti-Semitism associated with his name and his responsibility for the deaths of 600,000 Jews and tens of thousands of soldiers.

The government’s effort to establish a new Holocaust museum and education center focusing on child victims, the House of Fates, remained pending for a third year. Some Jewish groups and historians criticized the museum as an attempt to obscure the involvement of Hungary and Horthy in the Holocaust and stressing instead the role of Hungarian rescuers. Senior government officials repeatedly issued assurances that the museum would be opened only if Jewish community representatives reached a consensus agreement on the content of museum exhibits.

On July 18, during the visit of Israeli Prime Minister Netanyahu, Prime Minister Orbán declared that Hungary’s failure to protect its Jewish citizens during World War II was a crime.

### **Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt](http://www.state.gov/j/tip/rls/tiprpt).

### **Persons with Disabilities**

The constitution and the law prohibit discrimination against persons with physical, sensory, or intellectual disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services.

In harmony with the law, both the central government and municipalities continued to renovate public buildings to make them accessible to persons with disabilities. There were no data available on the percentage of government buildings that complied with the law, but NGOs asserted that many public buildings remained inaccessible. NGOs also noted that public transportation had limited accessibility. NGOs claimed public elementary schools are not obligated to enroll children with disabilities. The National Federation of Disabled Persons’ Associations criticized the lack of accessible dormitory space for persons with disabilities at higher educational institutions.

The government continued to implement its 30-year (2011-41) strategy to reduce the number of persons with disabilities living in institutions with capacities greater

than 50 persons. Between 2007 and 2013, approximately 600 of 23,000 such persons moved to group homes or smaller institutions with up to 30 beds. NGOs claimed, however, that the strategy covered only 10,000 of the 23,000 persons with disabilities living at large institutions and criticized the sustainability of newly created supported living facilities and the lack of transparency in monitoring processes and the risk of new group homes functioning as large institutions.

The constitution provides that a court may deprive persons with disabilities who are under guardianship of the right to vote due to limited mental capacity. This was criticized by the international NGO Mental Disability Advocacy Center as an “unsophisticated disguise for disability-based discrimination.”

NGOs noted that polling places were generally not accessible to persons with disabilities. The law also provides persons with physical disabilities the option of requesting a mobile ballot box.

The lead agency for protecting the rights of persons with disabilities is the Ministry of Human Capacities. On May 4, it announced that a special inquiry at the Tophaz home for the mentally and physically disabled in God, north of Budapest, found residents were malnourished; many were kept in chains; and others had open, untreated wounds, while some of the home’s 220 children were tied to their beds or made to wear straitjackets. The ministry suspended the director of the home and stated it had plans to close the facility.

In July the ombudsman announced finding that the state was failing in its duty to provide suitable and accessible education for students with disabilities in violation of international agreements. The ombudsman found that, as the state had no data on the exact number of students with disabilities, it failed to establish institutions to serve them, and that there was a lack of properly trained teachers.

### **National/Racial/Ethnic Minorities**

Roma were the largest ethnic minority. According to the 2011 census, approximately 315,000 persons (3 percent of the population) identified themselves as Roma. Unofficial estimates suggested the actual figure was between 500,000 and 800,000 persons. Human rights NGOs continued to report that Roma suffered social and economic exclusion and discrimination in almost all fields of life.

According to the EC’s Roma integration indicators scoreboard (2011-16), one-third of Roma lived in households with no toilet, shower, or bathroom. Media

reported that the municipal council in Kisvarda offered a nonrefundable grant of 1.5 million forints (\$5,400) to tenants of government-provided housing--mainly underprivileged Romani families--if they terminated their lease contracts by mutual consent and did not apply for social housing or rent any other property in the town for 15 years.

In January the ECHR ruled that police failed to provide adequate protection to two Romani individuals who were attacked with stones and bottles during a demonstration by Jobbik and paramilitary groups in Devecser in 2012 or to conduct a proper investigation of the incident.

In February the Supreme Court ruled that local police in Gyongyospata had discriminated against the local Romani community in 2011 by failing to protect them against harassment by extremist groups.

The public education system continued to provide inadequate instruction for members of minorities in their own languages as required by law, and Romani-language schoolbooks and qualified teachers were in short supply.

According to the Ministry of Human Capacities, in 2016 some 280,000 Roma lived in approximately 1,384 settlements where at least half the population were Roma. In 2016 the government continued a 45-billion-forints (\$162 million) settlement rehabilitation program to improve the living conditions of residents of segregated settlements.

The law establishes cultural autonomy for nationalities (replacing the term “minorities”) and recognizes the right to foster and enrich historic traditions, language, culture, and educational rights as well as to establish and operate institutions and maintain international contacts.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law explicitly prohibits discrimination based on sexual orientation. In addition, the law prohibits certain forms of hate speech and prescribes increased punishment for violence against members of the lesbian, gay, bisexual, transgender, and intersex community.

On July 8, the Budapest Gay Pride Parade was permitted to proceed along open streets, rather than a route sealed by fences, for the first time in 10 years.

Attendance was officially estimated at more than 10,000. Several counterdemonstrations occurred.

In July the Budapest-Capital Regional Court convicted five men of intimidation for assaulting three men who took part in the Budapest pride parade in 2013.

In April the Constitutional Court ruled that the town of Asotthalom's 2016 ban on activity promoting same-sex marriage was unconstitutional. The court stated local authorities may not pass regulations affecting a basic right directly or restricting it.

A January report by the ombudsman for fundamental rights noted that registered same-sex partners were entitled to the same tax benefits as married couples.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join independent unions without previous authorization or excessive requirements, conduct their activities without interference, and bargain collectively. With the exception of law enforcement and military personnel, prison guards, border guards, health-care workers, and firefighters, workers have the right to strike. The law permits military and police unions to seek resolution of grievances in court. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity.

Workers performing activities that authorities determine are essential to the public interest, such as schools, public transport, telecommunications, water, power, may not strike unless an agreement has been reached on provision of "sufficient services" during a strike. Courts determine the definition of sufficient services. National trade unions opposed the law on the basis that the courts lacked the expertise to rule on minimum service levels and generally refused to rule on such cases, essentially inhibiting the right to strike.

The government effectively enforced laws providing for freedom of association and collective bargaining. Penalties were generally inadequate to deter violations. The labor inspectorate does not use inspections, remediation efforts, or monetary penalties in enforcement efforts. Administrative and judicial procedures were sometimes subject to lengthy delays and appeals.

Authorities and employers generally respected freedom of association and the right to collective bargaining. The International Trade Union Confederation noted, however, that the labor code prohibits any worker conduct that may jeopardize the employer's reputation or legitimate economic and organizational interests and explicitly provides for the possibility of restricting the workers' personal rights in this regard--including their right to express an opinion during or outside of working hours. There was also anecdotal evidence of unilateral termination of collective agreements. Unions reported that the government continued to attempt to influence their independent operation.

While the law provides for reinstatement of workers fired for union activity, court proceedings on unfair dismissal cases sometimes took more than a year to complete, and authorities did not always enforce court decisions.

### **b. Prohibition of Forced or Compulsory Labor**

While the law prohibits all forms of forced or compulsory labor, the government failed to enforce it effectively. Penalties for forced labor were comparable to penalties for other serious crimes.

Groups vulnerable to forced labor included those in extreme poverty, undereducated young adults, Roma, and homeless men. Labor trafficking of Hungarian men in Western Europe occurred in agriculture, construction, and factories. The government increased law enforcement efforts and sustained its prevention efforts.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt](http://www.state.gov/j/tip/rls/tiprpt).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The constitution generally prohibits child labor. The law prohibits children younger than 16 from working, except that children who are 15 or 16 may work under certain circumstances as temporary workers during school vacations or may be employed to perform in cultural, artistic, sports, or advertising activities. Children may not work night shifts or overtime or perform hard physical labor. Violations may be punished with imprisonment not exceeding three years.

Through the end of December 2016, the employment authority reported two cases, involving two children, of child labor under the age of 15. The employment

authority also reported cases involving three children who were 15 or 16, and six involving seven children between the ages of 16 and 18 who were employed without the consent of their parents or legal representatives.

#### **d. Discrimination with Respect to Employment and Occupation**

The constitution and laws prohibit discrimination based on race, sex, gender, disability, language, sexual orientation and gender identity, infection with HIV or other communicable diseases, or social status. The labor code provides for the principles of equal treatment. The government failed to enforce these regulations effectively. Penalties took the form of fines but were generally inadequate to deter violations.

Discrimination in employment and occupation occurred with respect to Roma, women, and persons with disabilities. According to NGOs, there was economic discrimination against women in the workplace, particularly against job seekers older than 50 and those who were pregnant or had returned from maternity leave. A government decree requires companies with more than 25 employees to reserve 5 percent of their work positions for persons with physical or mental disabilities. While the decree provides fines for noncompliance, employers generally paid the fines rather than employ persons with disabilities. The National Tax and Customs Authority issued “rehabilitation cards” for disabled persons which granted tax benefits for employers employing such individuals.

#### **e. Acceptable Conditions of Work**

In 2016 the national minimum monthly wage for full-time employment of unskilled workers did not reach the poverty level. In 2016 the special minimum monthly wage for skilled workers did meet the poverty level.

The law sets the official workday at eight hours, although it may vary depending on industry. A 48-hour rest period is required during any seven-day period. The regular workweek is 40 hours with premium pay for overtime and two days of rest. The labor code sets the maximum limit of overtime at 250 hours per year and provides for 10 paid annual national holidays. The government set occupational safety and health standards, which were up to date and appropriate for the main industries. Workers have the right to remove themselves from situations that endangered their health or safety without jeopardy to their employment, and authorities effectively protected employees in such situations. Labor laws also apply to foreign workers with work permits.

Labor standards were not enforced in the informal economy. The employment authority and the labor inspectorate units of government offices monitored and enforced occupational safety and health standards and labor code regulations. As of August occupational safety inspectors registered 79,969 injuries at workplaces, most of them in the mechanical engineering and manufacturing industries. There were 45 workplace fatalities, most of which took place in the agricultural, construction, and logistics sectors.