

# HUNGARIAN MEDIA LAWS IN EUROPE



**An Assessment of the Consistency of Hungary's  
Media Laws with European Practices and Norms**

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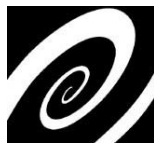
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## About the Center for Media and Communication Studies (CMCS)

The Center for Media and Communication Studies (CMCS) is a research center of Central European University in Budapest dedicated to advancing media and communications scholarship and the democratic potential of the media.

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# Executive summary

## Introduction

This study analyses the consistency of Hungary's new media laws with European practices and norms. It addresses a key international policy debate regarding the conformity of Hungary's new media legislation to European and EU media-regulation standards.

Hungarian lawmakers have established a set of comprehensive new media laws that critics say are inconsistent with democratic free-press principles and European practices and norms. Hungarian officials say the legislation conforms to EU standards and its elements are drawn from existing regulations in other European and EU-member states. In December 2010 and January 2011, the Hungarian Government released two statements summarising the main criticisms of its new laws and providing examples of regulations from 20 European and EU-member states as precedents for Hungary's media legislation. For this study, the Center for Media and Communication Studies (CMCS) commissioned media policy experts in each of these 20 countries to examine every example cited by Hungary's Government. The findings of this report are based on these expert assessments.

The purpose of this study is to examine the accuracy of the precedents cited by the Hungarian Government in order to shed light on the more critical question of how consistent Hungary's media laws are with other media systems in Europe. As such, the focus of the study is narrow by design: the analyses are based on a set of specific examples of similar legislation as cited by the Hungarian Government.

This study reveals a wide diversity in media regulations and policies among European and EU-member states. While freedom of expression and the press are fundamental rights that are codified in the legal frameworks of both domestic and European law, there appears to be no uniform model of media regulation for safeguarding these rights at the domestic level. On the European level, various institutions—the European Commission, European Parliament and Council of Europe—also pursue different, sometimes conflicting priorities with regards to these freedoms.<sup>1</sup>

It is therefore important to clarify that the term “European free-press norms” refers to the established body of legal statutes pertaining to press freedom that are contained in the international protocols and conventions to which European and EU-member states are legally bound. These are contained in Article 11 of the *Charter of Fundamental Rights of the European Union*, Article 10 of the *European Convention on Human Rights* (ECHR) and Article 19 of the *UN Declaration of Human Rights*. Each of these conventions guarantee that all individuals have the right to “freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”<sup>2</sup>

Article 11 of the *Charter of Fundamental Rights of the European Union* also ensures that “freedom and pluralism of the media shall be respected.” According to the Article 10 of the ECHR, the right

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1 *Press Freedom and Pluralism in Europe*, Andrea Czepek, Melanie Hellwig and Eva Nowak (Eds), Intellect Books - European Communication Research and Education Association (2009), p. 10; available at: <http://www.scribd.com/doc/19301441/Press-Freedom-and-Pluralism-in-Europe-Concepts-and-Conditions>.

2 Taken from Article 11 of *Charter of Fundamental Rights of the European Union*. Similar statutes with slightly different wording also appear in the Article 10 of *European Convention on Human Rights* (ECHR) and Article 19 of the *UN Declaration of Human Rights*.



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to freedom of expression “shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.” Article 10(2) of the ECHR further specifies that exercising these freedoms comes with “duties and responsibilities” that may be subject to limitations,<sup>3</sup> however the European Court of Human Rights has consistently ruled that these exceptions are to be narrowly construed by European and EU-member states.

## Findings

This report presents expert analyses of the 56 media regulations from 20 European and EU-member states that were cited by the Hungarian Government as precedents for its new media laws. The study finds that Hungary’s media laws are largely inconsistent with the cited European practices and norms, based on an examination of the legal precedents provided and on the expert analyses of how these precedents are implemented in these European and EU-member countries. In a majority of examples, experts report that the Hungarian Government’s references omit or inaccurately characterise relevant factors of the other countries’ regulatory systems, and as a result, the examples do not provide sufficient and/or equivalent comparisons to Hungary’s media regulation system. In many examples, the Hungarian Government accurately presents a portion of a legal provision or regulation, however the reference either omits elements of how the regulation is implemented or the regulation cited does not correspond with the scope and powers of Hungary’s media laws or Media Authority. Overall, this study finds that the European media regulations cited by the Hungarian Government do not serve as adequate precedents for Hungary’s new media laws.

The expert assessments indicate that Hungary’s media laws appear to be inconsistent with the cited European media regulation systems and/or practices in a majority of examples provided by the Hungarian Government in the following areas:

- *the Hungarian Media Authority’s centralised structure and scope of authority over all media sectors and all areas of media regulation, from tendering, licensing and spectrum management to monitoring and issuing sanctions;*
- *the Hungarian media laws’ scope over all media sectors, inclusive of traditional print and online press, and under the supervision of a single media authority;*
- *the Hungarian Media Council’s role in appointing directors to public media outlets, and its management of the funding body for Hungary’s public media;*
- *the Hungarian Media Authority’s sanctioning powers over all media, inclusive of the print and online press;*
- *the process of judicial review of the Hungarian Media Authority’s decisions.*

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3 Article 10(2) of the ECHR grants that freedom of expression can be subject to “formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

The expert assessments indicate that a majority of the Government's examples do not appear to provide proportionate comparisons to Hungary's Media Authority or to Hungary's media regulation framework. This trend is evident in the assessments throughout this study, as demonstrated by the expert analyses of the Government's examples in the following seven areas:<sup>4</sup>

**1. Media Authority independence.** In response to international concerns regarding the independence of Hungary's new Media Authority, the Hungarian Government cites examples of media authorities from nine European and EU-member countries which it states are less independent from the government than in Hungary (**Austria, Belgium, Denmark, Ireland, Italy, Netherlands, Sweden, Switzerland** and the **UK**). The Hungarian Government cites examples of the appointment procedures of members to the media regulatory bodies in these countries. Although it is accurate that some or all members of these bodies are appointed by the government, in all nine cases the expert assessments indicate that the Hungarian Government's examples inaccurately cite or omit key formal and informal elements of the appointment and/or regulatory systems which would provide a more complete assessment of the level of regulatory independence with which these bodies operate in practice. Experts also find that the media regulatory bodies cited do not have the equivalent regulatory scope as Hungary's Media Authority. For instance, unlike in Hungary, in all nine examples given, the media authority referenced is responsible for regulating broadcasting and audiovisual media but has no content-related authority over all media sectors, including both the print and online press. Furthermore, in all nine cases, the media regulatory body cited is not the sole—or in some cases even the most powerful—media authority in that country. In six of the nine examples, the Hungarian Government cites an incorrect or former regulatory body and/or an inaccurate or outdated appointment procedure or law.

The analyses also reveal problems with independence in a majority of these cited cases, even with formal safeguards in place. The research therefore indicates that the risk of “government capture” of media regulatory bodies is not unique to any specific appointment system. However, the expert assessments demonstrate that the Hungarian Government's claim that the cited media regulatory bodies have less independence from the government than Hungary's Media Authority is not supported by the examples provided.

**2. Media Authority's centralised structure and regulatory scope.** In response to the criticism of the Media Authority's centralised structure and wide scope of authority over all media sectors and regulatory activities—from tendering and licensing to monitoring and sanctioning media—the Hungarian Government cites examples of three convergent regulatory bodies as sharing similar powers: **Finland's FICORA, Italy's AGCOM** and the **United Kingdom's Ofcom**. According to the expert evaluations, the single common point between these bodies and Hungary's Media Authority is that each is a formally “convergent” regulator with varying levels of competencies over the media, telecommunications and postal sectors. However, in none of the three examples cited does the body referenced regulate all media sectors, as with Hungary's Media Authority. In all three cases, the regulatory body cited has no authority over the content of traditional print or online press. In addition, in Finland public media are regulated by a separate body, and in the UK, Ofcom has limited regulatory authority over the BBC. **Finland's FICORA** and the **UK's Ofcom** are responsible for both tendering and licensing as well as for monitoring and sanctioning media under its regulatory authority. However Finland's FICORA has the power to grant (and revoke) short-term licenses only; the power to grant (and revoke) broadcasting licenses is the responsibility of the Ministry of Transport and Communications. With **Ofcom**, tendering/licensing and monitoring/sanctioning are handled by two separate units and personnel within that body. **Italy's AGCOM** is not responsible for tendering and licensing. Hence, the specific structure of Hungary's

<sup>4</sup> Each of these areas are further detailed in the seven chapters of this study.

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Media Authority, in which all of these functions are carried out by a single body, appears to be unique among the three convergent regulatory bodies cited. In addition, in all three cases cited by the Hungarian Government, the regulatory bodies referenced are not the sole media regulator in that country. The expert assessments therefore indicate that the scope of powers afforded to Hungary's convergent Media Authority appears to exceed those in the three examples of convergent regulatory bodies cited.

**3. Media laws' scope (regulating print and online press).** In response to the criticism of the Hungarian media laws' regulatory scope over all media inclusive of the print and online press, the Hungarian Government cites examples from eight EU-member and European countries in which these media are also regulated (**Austria, France, Italy, Lithuania, Portugal, Slovenia, Sweden and Switzerland**). The expert evaluations of these examples show that the Hungarian Government's general claim that traditional print and online press are regulated in other European and EU-member states is accurate. In all cases cited, the print and online press are bound by certain legal statutes or standards—a separate press law, the constitution, and/or professional codes of ethics—and in some cases, even by provisions in the penal codes. However, in five of these cases (**Austria, France, Italy, Sweden, Switzerland**), print and/or online press are regulated by a separate press law and/or by professional codes of ethics, and these media are self-regulated under the supervision of a press council and/or the courts. In addition, for all seven of the EU-member states in this set of examples, the expert analyses show that the media laws generally extend to the online content of broadcasters and audiovisual media in accordance with the EU Audiovisual Media Services Directive; however in a majority of these cases, these regulations do not extend to traditional print media or their online content.

In three cases, **Italy, Lithuania and Slovenia**, there is a unitary law covering all media, including the print and online press, but these media are either regulated by different bodies (in **Lithuania and Slovenia**) or by the courts (in **Italy**). In one case, **Portugal**, the media authority has supervision over all media but these media are bound by separate obligations under sector-specific laws; the print and online press are subject to the fewest restrictions of all media sectors. In addition, Portugal's media authority is responsible for monitoring content-related provisions of the various media laws, but unlike Hungary's Media Authority, it has no authority over technical and competition-based regulations. Hence, among all eight cases in this set of examples, Hungary's is the only system in which all media are regulated under a comprehensive media law and by a single authority responsible for regulating all media sectors.

**4. Public Service Media.** In response to criticisms of the Media Council's role in appointing directors of Hungary's public service media outlets, the Hungarian Government cites examples from six European countries (**Austria, Czech Republic, Finland, France, Switzerland and the UK**) in which the CEOs of public media outlets are appointed without tendering. The expert assessments show the Hungarian Government's examples are generally accurate—although in a majority of these cases the experts also report that this practice is both prone to political influence and public criticism. As such, with these examples the Hungarian Government compares its system to a practice with notable deficiencies in relation to European norms, specifically with regard to the Council of Europe's recommendations for the independence of public media. In addition, the expert analyses show that a majority of the examples cited do not adequately correspond with the bodies responsible for and/or systems of appointing public media directors in Hungary. Although experts report that these appointments are often politicised, the analyses indicate that in a majority of the examples cited there are one or more tiers of “checks” that work to mitigate direct governmental influence over these appointments. In five of the six cases cited, Hungary's system appears to have fewer of these safeguards in place. The exception is **France**,

where the appointment procedures appear to provide the least safeguards of all examples cited, including Hungary's. As a result of amendments passed by the Sarkozy Government in 2009, the director of France Télévision is appointed by the French president, after approval by the country's media regulator and relevant parliamentary committees. This new system has raised serious concerns from free-press advocates as a threat to France Télévision's political independence, and would also appear to be inconsistent with the above-mentioned Council of Europe's standards.

In response to the criticism of the centralisation of news production of Hungary's public media system, the Hungarian Government cites similar examples from **Austria, Italy**, and the **UK**. According to the expert evaluations, these examples are partially accurate: in the Austrian and Italian public media systems, some or much of the content is produced regionally, with partial or full editorial independence. The Government's description of the British BBC is more accurate, as news production within the BBC has been increasingly centralised across platforms and channels over the past decade. However, experts in Italy and the UK also report that the centralisation of news production of the public media systems has raised issues with regard to political independence and programming diversity. In the case of the UK, the expert reports that the centralisation of news production of the BBC has sparked much public controversy, as opponents say this process has compromised the BBC's programming diversity and pluralism. Hence, with these examples, Hungary's system appears to be consistent with a news-production structure that experts describe as having notable deficiencies.

In response to criticism over the Media Council's role in managing the new fund for Hungary's public service media, the Hungarian Government cites an example from one EU country, **Finland**, in which it states the media authority has a similar role. According to the country expert, this example is not accurate. The Finnish Communication Regulatory Authority's (FICORA) role in managing public media financing is purely administrative: it collects the annual license fees from households and businesses for the State Television and Radio Fund. FICORA has no authority to set the level of overall funding for public media, to allocate funding to public media outlets or to determine for what activities the funding is to be utilised. FICORA has no relationship with the Fund other than to collect license fees. By comparison, Hungary's Media Council manages Hungary's public service media fund, the MTVA. The chairperson of the Media Council appoints the Fund's director general, deputy directors, the chairperson and the four members of its supervisory board. The Media Council is responsible for approving the Fund's annual plan and subsidy policy, and for determining the rules governing how MTVA's assets can be used, managed and accessed by the public media.

**5. Media Authority's powers.** In response to critics who claim that Hungary's new media laws allow the Media Authority and Media Council to assert arbitrary control over tendering and licensing processes, as well as concerns over the Media Authority president's powers to issue decrees, the Hungarian Government cites similar precedents from two countries in which media authorities have powers to a) renew licenses without a tender (**France**), and b) issue directives (**Germany**). Although in both cases the examples cited are accurate, according to the expert assessments neither example corresponds to the Media Authority's specific powers in these areas.

In response to the concerns over the powers of Hungary's new Media and Communications Commissioner, the Government cites examples of similar ombudsman and/or press council systems in **Finland, Ireland**, and **Lithuania**. According to the expert evaluations, the comparisons between the bodies cited and Hungary's Media Commissioner are inaccurate: the ombudsman and/or press councils cited in these three systems operate as independent entities from the respective media authority in monitoring compliance with legal regulations, codes of ethics, or in handling disputes between the public and the press. Hungary's Media Commissioner,

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by comparison, is an appointee of the Media Authority president, and operates within and as a representative of Hungary's media regulatory body. The Commissioner has the authority to initiate proceedings that do not involve violations of the law and its proceedings can be enforced by Media Authority-issued fines and sanctions. Although its tasks include handling complaints from the public, the Media Commissioner's additional monitoring and enforcement powers exceed those afforded to the three bodies cited by the Hungarian Government. The Government's examples appear to erroneously equate the Media Commissioner's role and powers with those of a traditional ombudsman, and at the same time to inaccurately or inadequately present the respective powers and roles of the ombudsman and press council systems in the three cases cited.

**6. Data Disclosure:** In response to the criticism of the Media Authority's powers to demand data from media outlets beyond that which is required for mandatory registration, the Government cites examples of media regulatory bodies with similar powers in **Denmark, Estonia, Italy** and **Lithuania**. The expert assessments of these examples show that the Hungarian Media Authority's data-disclosure powers appear to exceed those in three of the four country cases cited. In each of the four examples cited, media authorities can require data from media outlets as a condition of registration and in the course of its regulatory oversight and investigatory activities. In only one of the four examples (**Italy**) does the cited media regulator's power in this area extend to all media sectors, including print and online press. In addition, the Hungarian Media Authority's powers to demand an unlimited range of data and information from all media, combined with the power to assess financial and other penalties on media outlets for incorrect provision of data and for refusal to comply with data disclosure requests, are similar to those in only one of the four examples cited: **Italy's AGCOM**. The expert assessment shows that AGCOM's investigatory and sanctioning powers regarding data disclosure are in fact greater than those granted to Hungary's Media Authority.

**7. Sanctions:** In response to criticisms of the Hungarian Media Authority's sanctioning powers, the Hungarian Government cites precedents of similar sanctioning policies from 15 EU-member states: **Czech Republic, Denmark, Estonia, Finland** (two examples), **France, Germany** (two examples), **Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Slovakia, Slovenia**, and the **UK**. The expert assessments indicate that the scope of the Hungarian Media Authority's sanctioning powers over all media is inconsistent with those in the examples it provided. The Government cites 17 examples from 15 European countries in which the media can be sanctioned with (some combination of) fines, suspensions, license revocations, and/or terminations. However, as the expert analyses show, the Media Authority's sanctioning scope over all media appears to exceed those afforded to other media authorities in all cited examples. The expert evaluations indicate that the sanctioning policies referenced are often imposed by various regulatory bodies and/or the courts, which have regulatory and sanctioning powers over different media sectors; in Hungary, a single authority has sanctioning power over all media. Although in many of these systems, traditional print and/or online press can be penalised for violating various legal statutes or laws—including in some cases for breaches to provisions in the criminal codes—sanctions in a majority of these examples are managed by separate regulatory bodies, independent press councils and/or the courts.

Based on these expert assessments, the Media Authority's scope of sanctioning powers over all media sectors—public and commercial broadcasting, print and online press—is the broadest of all cases cited. In 14 of 17 cases, the media body referenced has sanctioning powers over broadcast and audiovisual media (commercial and/or public media, and their online content) but not traditional print or online press. In the three cases, **Germany, Portugal, and Slovenia**, the respective state media authorities have certain monitoring and sanctioning powers over print

and/or online press. Yet in each of these examples, there are factors that limit the scope of these powers as compared to those afforded to Hungary's Media Authority. In **Germany**, the state media authorities in extreme cases can order an Internet service provider to remove online content for breaches to regulations on protection of minors, however for websites with journalistic content this order must be approved by a judge. Print media and public service media are self regulated in Germany. In **Slovenia**, the Media Inspectorate has sanctioning powers over all media, including the print and online press, but the Inspectorate is neither the sole media authority in Slovenia nor is it the primary media authority or sanctioning body for broadcast media. In **Portugal**, the media authority's general scope of sanctioning powers over all media appears closest to that of Hungary's Media Authority. However, that body regulates media according to sector-specific statutes; the press and online press are regulated by separate laws and under less restrictive obligations than broadcasters. In addition, Portugal's media authority monitors compliance with and can sanction media for breaches to content-related regulations but has no sanctioning powers over competition and other technical regulations in the media laws. As such, the general scope of the Portuguese media authority's sanctioning powers appears more limited than Hungary's Media Authority.

The expert analyses also reveal that a majority of the Hungarian Government's examples omit or inaccurately characterise key factors which influence or serve as "checks" on how sanctions are applied and enforced in practice. As such, in numerous examples the Hungarian Government correctly cites a specific sanction as provided for in a respective system, however that sanction in some cases applies to specific media sectors, in others to specific breaches, or the particular sanction cited has rarely or ever been imposed in practice. For instance, in seven cases cited, the sanctioning power referenced has never been applied: **Finland** (two examples), **Germany, Ireland, Poland, Portugal and Slovenia**. In five examples, the Hungarian Government's comparisons contain one or more factual inaccuracies, in which the citation refers to the incorrect sanctioning body and/or procedure, or erroneously combines two separate statutes into a single claim: **Estonia, Ireland, Italy, Lithuania and Slovenia**.

In addition, the expert assessments indicate that the process of judicial review of the Media Authority's decisions appears to be inconsistent with those in this set of countries. In Hungary, the Media Authority's sanctioning decisions can be appealed in an administrative court. Appeals do not automatically suspend the Authority's decisions. In addition, the administrative court may only review whether the Authority's decision complies with the provisions in the media laws but the court cannot consider the Media Authority's decisions on the basis of any other laws or legal precedents. Decisions of the administrative court cannot be further appealed. In all countries in this set of examples, the decisions of the media authorities are subject to judicial review; in some cases, appeals have an automatic suspensive effect on the decision; in all cases but one, **France**, the first court's decision can be further appealed.

In Hungary, the appeals process of the Media Authority's decisions was altered by additional amendments passed by Hungarian lawmakers after the close of Hungary's EU presidency in July 2011. As a result of these amendments, fines imposed by the Media Authority are now deemed "public debt" and collectible by the tax authorities, regardless of whether the Media Authority's sanction has been challenged in court. This change has significantly diminished the key checks-and-balances system of the judicial review process with regard to the Media Authority's fining decisions. Hence, the current legal framework for appealing the Hungarian Media Authority's decisions appears to be inconsistent with judicial review processes in all of these 15 country cases, and would also appear to be inconsistent with established European norms requiring states to provide an effective remedy for appeals at the national level.<sup>5</sup>

<sup>5</sup> Per Articles 6 and 13 of the European Convention on Human Rights, as detailed further in Chapter 7 of this report.

## Conclusions

These analyses indicate that the Hungarian Government's general assertion that its media laws are derived from those in other European and EU-member states cannot be substantiated by the examples it provided. Instead, many of the most important features of Hungary's new media laws appear to be unique to the European media regulation systems cited by the Hungarian Government. This finding is based on both the evaluations of the legal precedents cited, as well as the expert analyses of how these regulations are implemented in these European and EU-member countries in practice.

In numerous cases throughout this study, the Government's examples contain factual inaccuracies—ranging from minor discrepancies, such as citing the inaccurate number of members of a regulatory body, to more substantial errors, such as citing a significantly outdated regulation or misstating the regulatory powers and scope of a particular media authority or media law. While these errors diminish the accuracy and credibility of the Government's overall claims, this study highlights a more important issue, which is the Government's broader misinterpretation of the cited European media regulations on which it has indicated Hungary's new media laws are based.

Country cases in this report range from the top-ranked free-press system in the world, Finland, to the lowest-ranked in Europe, Italy.<sup>6</sup> Hence, these expert assessments also reveal a wide disparity in media regulations within Europe, as well as a number of key deficiencies in some European systems. For instance, the politicisation of media regulatory bodies appears to be a common issue in a majority of these countries, even with formal safeguards to prevent governmental interference. As discussed in the findings of Chapter 1, it appears to be a widespread condition among the regulatory systems considered in this study that the regulatory bodies reflect in varying degrees the political affiliations of the governments in power.

In addition, these assessments also reveal that the implementation of the EU Audiovisual Media Services Directive (EU AMVSD) has significantly broadened the authority of media regulatory bodies within the EU to include different areas of online media. Although the extent of this authority varies by country, it is evident from these analyses that in many EU-member states the adoption of this directive has transposed the traditional, sector-specific approach with a “technologically neutral” model of media regulation. While some countries have imposed this directive in the most minimal manner possible while still retaining the sector-specific framework of media regulation, others, like Hungary, have adopted more comprehensive definitions of “media services” that include the print and online press.

The data provided in this report substantiates a number of key points raised by critics regarding Hungary's new media laws, specifically with regard to the scope of the Media Authority's powers. Numerous media experts and international organisations have maintained that the scope of powers granted to Hungary's Media Authority is “unprecedented” among other media regulatory bodies in Europe. This claim appears to be validated by the analyses of the media regulatory systems evaluated in this study.

These analyses also invalidate the statement by Hungarian authorities that “no part of [the media laws] contains provisions that are not found in the legislation of one or more EU member states.”<sup>7</sup> While these assessments show that there are select examples from within the Europe which serve

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6 According to the Freedom House Global Press Freedom Rankings from 2011, available at: <http://freedomhouse.org/images/File/fop/2011/FOTP2011GlobalRegionalTables.pdf>.

7 As expressed by Hungarian Deputy Prime Minister Tibor Navracsics in a letter to European Commissioner Neelie Kroes, 29 December 2010, available at: [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/libe/dv/navracsics\\_kroes\\_humedialaw\\_291210/navracsics\\_kroes\\_humedialaw\\_291210en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/navracsics_kroes_humedialaw_291210/navracsics_kroes_humedialaw_291210en.pdf).

as precedents for Hungary’s media regulations, a majority of the examples cited by the Hungarian Government do not correlate with the specific regulations as can be applied in the Hungarian system.

The information provided by experts in this report also counters some widespread concerns by critics over specific content regulations contained in Hungary’s new media laws. For instance, the “balanced” coverage obligation, which became a significant point of international criticism of Hungary’s media laws, appears in numerous laws of other European countries in this study, as do the obligations to respect the “constitutional order,” and in some cases, provisions banning content that offends “public morality.” While the specific obligation in Hungary’s system prohibiting content that offends or excludes “nations, communities, national, ethnic, linguistic and other *minorities or any majority* as well as any church or religious groups” appears unique among the examples cited, the expert assessments also reveal a range of problematic and overly broad content regulations in a number of other systems—including in **Ireland, Poland, and Slovenia**—for which media can be sanctioned.

In several countries—including **Italy, France, and Slovenia**—journalists are also bound by criminal defamation laws, a press-restrictive policy which can muzzle critical coverage of politicians and business elites. As noted by the country expert in Chapter 7, in Italy journalists are regularly prosecuted for defamation. In September 2011, two Italian print journalists were sentenced to a year in prison after being found guilty of defaming a local mayor. By comparison, Hungary’s sanctioning system appears less press restrictive than the systems in which criminal defamation sanctions are applied in practice. Although the Hungarian Government’s examples do not address these key deficiencies, these are nevertheless critical baseline standards of press freedom which any study of Hungary’s media system in the European context would be remiss in not highlighting.

This study therefore not only reveals the inconsistencies of Hungary’s media laws to those in the examples cited by the Government, but also highlights key deficiencies in a number of other European countries that may inhibit press freedom in ways that also do not conform to European free-press norms. However, the most unique factor of Hungary’s system, which is demonstrated throughout this study, appears to be that in Hungary these regulations are monitored and enforced by a single regulatory body, which, as noted by the Council of Europe, at the very least lacks “*the appearance of independence and impartiality.*”<sup>8</sup>

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<sup>8</sup> “Opinion of the Commissioner for Human Rights on Hungary’s media legislation in light of Council of Europe standards on freedom of the media,” CommDH(2011)10, Council of Europe Commissioner for Human Rights, February 2011, [https://wcd.coe.int/wcd/ViewDoc.jsp?id=1751289#P245\\_30701](https://wcd.coe.int/wcd/ViewDoc.jsp?id=1751289#P245_30701) (emphasis in original).



## Report overview

This report presents expert analyses of 56 media regulations from 20 European and EU-member states cited in two statements published by the Hungarian Ministry Of Public Administration And Justice, in December 2010 and January 2011, respectively. Country experts conducted the analyses using a common, six-step methodology in order to examine both the factual accuracy of the regulation as cited by Hungarian Government, as well as to provide an assessment of how the respective regulation is implemented and enforced in practice (*See detailed description of “Methodology,” in the appendix of this report*). As such, each of the assessments include an analysis of the accuracy of the formal regulations as cited in the Hungarian Government’s statement, as well as a description of how the particular regulation is implemented within the respective country’s broader media-regulation landscape. Each expert report also includes any additional elements or practices that influence or serve as “checks” on how these regulations are applied in practice, along with any specific cases in which the particular regulation cited has been considered by domestic or international courts.

The majority of examples in this report are drawn from the Government’s December 20, 2010 statement.<sup>9</sup> That document contains examples of more than 70 regulations listed under 22 criticisms. Many of these cited examples were listed multiple times under different but related criticisms; hence, this report addresses all 47 unique examples in the December 2010 statement, as well as additional nine examples of appointment procedures of European media regulatory bodies provided in the Hungarian Government’s January 2011 statement.<sup>10</sup>

The report is organised into seven chapters, which represent the following general categories of criticisms, as summarised in and addressed by the Hungarian Government’s statements:

- 1) *Media Authority: independence*
- 2) *Media Authority: centralised structure and regulatory scope*
- 3) *Media laws’ scope: regulating print and online press*
- 4) *Public service media: appointing directors of public media; centralisation of news production; and funding*
- 5) *Media Authority powers: tendering and licensing; the Media and Communications Commissioner*
- 6) *Data disclosure*
- 7) *Sanctions*

Country	Number of regulations cited
Finland	6
Italy	6
UK	5
Lithuania	4
France	4
Austria	4
Germany	3
Denmark	3
Ireland	3
Switzerland	3
Czech Republic	2
Estonia	2
Portugal	2
Slovenia	2
Sweden	2
Belgium	1
Latvia	1
Netherlands	1
Poland	1
Slovakia	1
<b>TOTAL</b>	<b>56</b>

9 “Criticisms and answers formulated on the subject of the proposed media act examined in a European context,” Ministry of Public Administration and Justice, December 20, 2010, available at: <http://www.kormany.hu/en/ministry-of-public-administration-andjustice/news/criticisms-and-answers-formulated-onthe-subject-of-the-proposed-media-act-examined-in-aeuropean-context>.

10 “Reply to the criticisms expressed by the international media against the Media Act,” Ministry Of Public Administration And Justice, January 3, 2011, available at: <http://www.kormany.hu/en/ministry-of-publicadministration-and-justice/news/reply-to-the-criticism-ofthe-international-media>.

## Key criticisms and cited regulations by country

Media Authority: independence	Media Authority: centralised structure	Media laws' scope (print and online press)	Public Service Media	Media Authority: powers	Data Disclosure	Sanctions
Austria	Finland	Italy	Austria (2)	France	Denmark	Czech Republic
Belgium	Italy	Lithuania	Czech Republic	Germany	Estonia	Estonia
Denmark	UK	France	Finland (2)	Finland	Italy	Denmark
Italy		Austria	France	Ireland	Lithuania	Finland (2)
Ireland		Portugal	Italy	Lithuania		France
Netherlands		Slovenia	Switzerland			Germany (2)
Switzerland		Sweden	UK			Ireland
Sweden		Switzerland				Italy
UK						Latvia
						Lithuania
						Poland
						Portugal
						Slovakia
						Slovenia
						UK