

democracy-reporting.org

DEMOCRACY
REPORTING
INTERNATIONAL

JUDGING BY RESULTS

5 facts on Hungary's 'illiberal state'



Since 2010...



250% ↗

proportion of government wins in sensitive cases after judges replaced in Constitutional Court



1177% ↗

Hungarian applications to the European Court of Human Rights



95%

state TV airtime promoted government position in referendum



4 x

more spent on Hungary's refugee referendum per capita than UK Brexit campaigns



€1.88bn

public procurement contracts awarded to just four oligarchs (until 2015)

SIX YEARS OF MEDDLING WITH THE LAW

Hungary made significant changes to its constitution and legal structure after the Fidesz party swept to power in 2010. Amid protests in the streets and criticism from the EU, the Council of Europe and others, Prime Minister Viktor Orban led controversial changes affecting the country's checks and balances, such as the independence of the courts and freedom of the media.

The Council of Europe, the body responsible for defending human rights across Europe, has repeatedly raised concerns about the rule of law

in Orban's self-proclaimed 'illiberal state'. The Hungarian Government argues that the changes are in line with its legal obligations on democracy and human rights. But beyond these ongoing legal wranglings, what do the changes mean in practice?

This booklet presents data on the real world impact of such changes on the justice system, the media, referendum campaign finance, and public procurement over the last six years.



CONSTITUTIONAL COURT BACKS GOVERNMENT AFTER REMOVAL OF CROSS-PARTY JUDGES

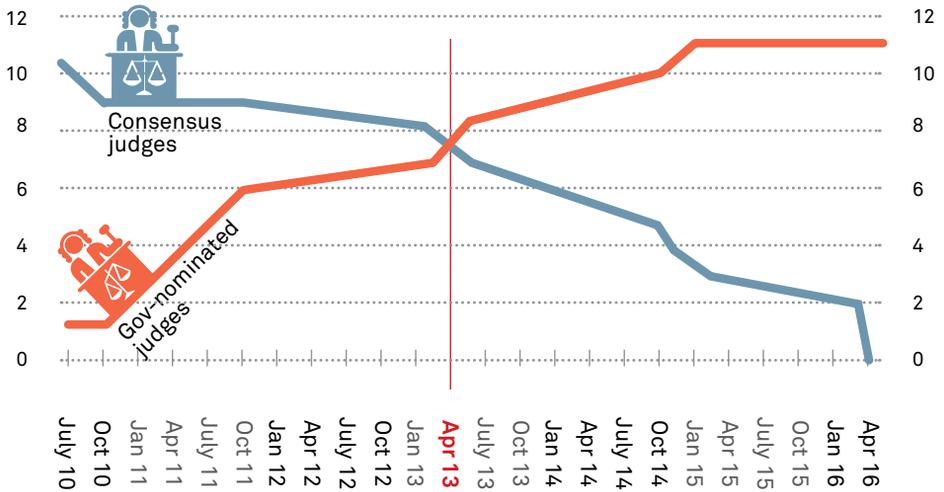
Constitutional Courts defend the rule of law, safeguarding citizens from governments that seek to exert power beyond their mandate. In 2010, the Fidesz majority in parliament changed the committee that nominates constitutional judges. In place of one MP from each party, representation became proportional to the composition of the House. While it enjoyed a 2/3 parliamentary majority, Fidesz was able to nominate judges without the need for consensus, as had been necessary before.

The Government subsequently increased the number of judges from 11 to 15, lengthened judicial terms from 9 to 12 years, and removed the age limit (70 years). In six years, the court went from 91% 'consensus judges' to 100% government

nominated judges. After Fidesz lost its majority in the 2015 elections, it nominated four new judges with the support of the minor opposition party Politics Can Be Different (LMP) in November 2016.

Our partner EKINT examined 45 key Constitutional Court decisions made between May 2010 and September 2016 and found that 24 outcomes were in line with government interests, and 21 opposed the Government's position. A clear turning point in case outcomes can be observed in April 2013, when judges nominated under the new rules began to outnumber consensus judges. Prior to this date, the Government 'won' 20% of high profile or politically sensitive cases, and 70% of cases afterwards – a massive increase in pro-government rulings.

Make up of the Constitutional Court against case outcomes >>



Before April 2013



After April 2013



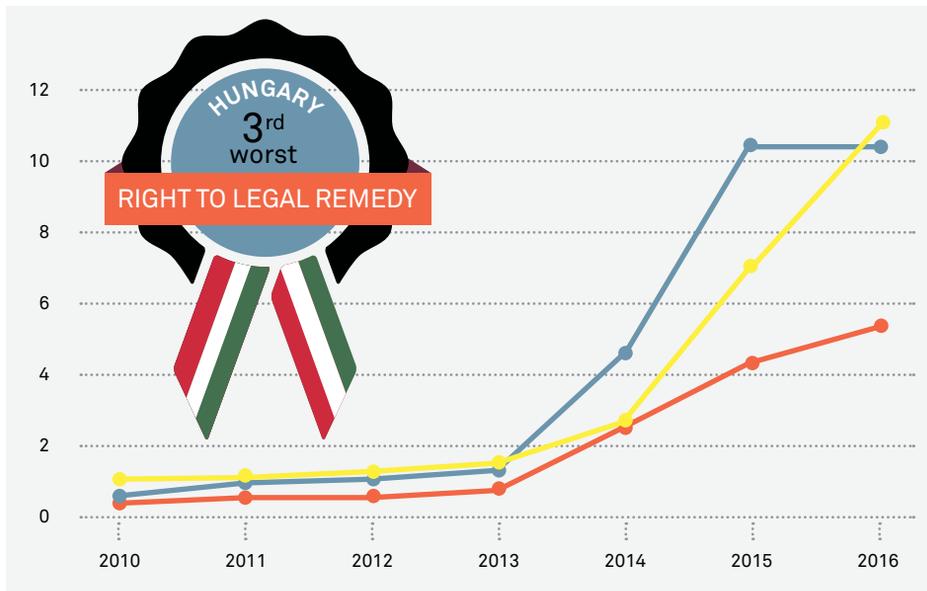
SPIKE IN APPLICATIONS TO ECHR AS HUNGARIANS SEEK JUSTICE

The European Court of Human Rights (ECHR) has the power to overrule national courts in order to uphold a citizen's civil and political rights, as set out in the European Convention on Human Rights.

Hungarian applications to the ECHR increased by 1177% between 2010 and 2016 to reach a total of 5,569 applications. Hungary's share of total applications to the court increased from 0.71% to 10.41% over the same period – a significant amount, considering Hungary's 10 million citizens represent around 1.25% of the 800 million citizens living in the court's jurisdiction.

Hungary's share of the ECHR's annual pending cases also shot up from 1.12% in 2010 to 11.2 % in 2016, resulting in Hungary having the highest number of pending cases per capita and the third highest number of pending cases after Ukraine and Turkey. In 2015, the ECHR ruled that Hungary had violated Article 13 and denied its citizens the right to effective legal remedy in 12 cases. This puts Hungary in the top three worst offenders of Article 13 out the Council of Europe's 47 member countries.

Number of ECHR applications and pending cases from Hungary >>



—●—
Percent annual applications



—●—
Applications per ten thousand inhabitants



—●—
Percent pending cases





MEDIA BIAS OBSERVED FOLLOWING STATE MEDIA TAKEOVER

According to Hungary's Media Services and Mass Communication Act 2010, public broadcasters must provide balanced news coverage. In 2011, a controversial media law established the Media Council to scrutinise state-funded media. Appointments to the Council were made by the Fidesz-dominated parliament. State-owned media was subsequently merged into the umbrella organisation MTVA, overseen by the Media Council. MTVA is alleged to have removed critical senior executives and members of staff working in state media.

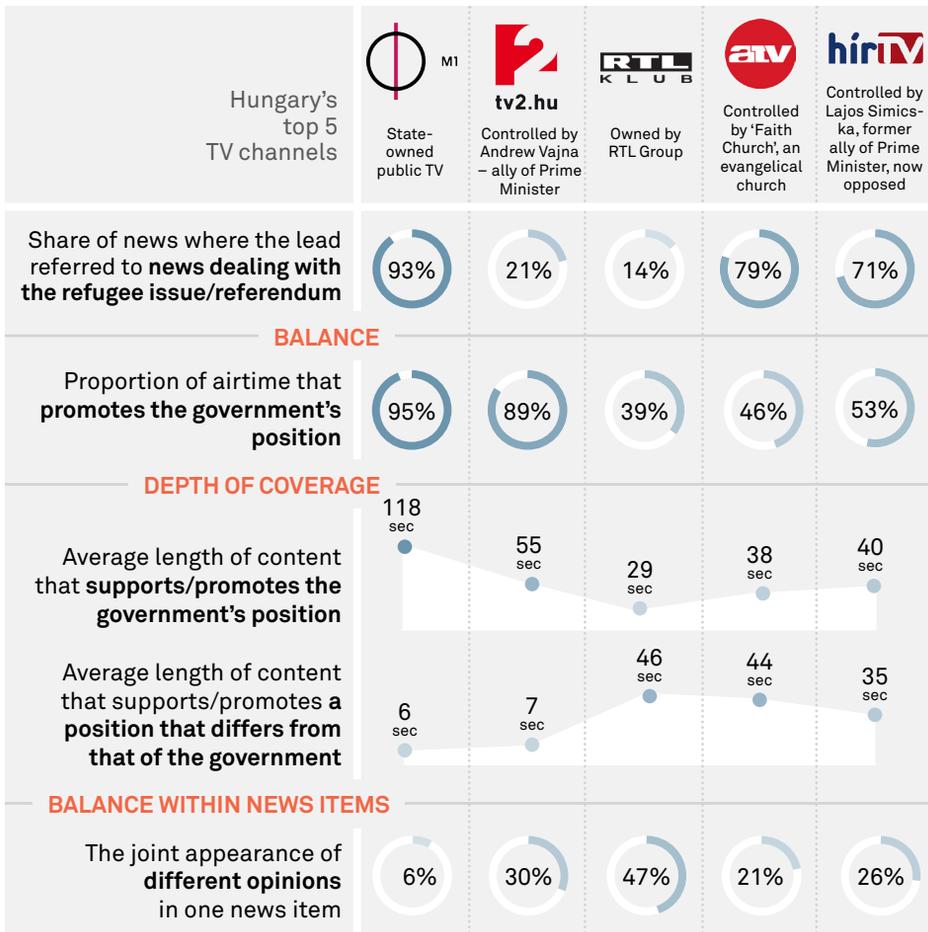
We partnered with Mertek Media Monitor to analyse the evening news across Hungary's five main TV channels during the country's 2016

referendum campaign on EU quotas for refugees. The study found that Hungary's state-owned TV network M1, which is bound by the highest standards of balanced reporting as a public broadcaster, supported the government's position 95% of the time.

TV2, a station acquired by a businessman with close government ties, exhibited the second strongest pro-government bias. These findings confirm earlier media monitoring data by the Organization for Security and Co-operation in Europe (OSZE) during Hungary's 2014 general election campaign, which found that 84% of M1's coverage of the Opposition was negative compared to just 5% for the ruling Fidesz party¹.

¹ www.osce.org/odihr/elections/hungary/121098?download=true

Coverage of referendum campaign on Hungarian TV news >>





EXCESSIVE SPENDING IN BIASED REFERENDUM AMOUNTS TO ‘POLITICAL PR’

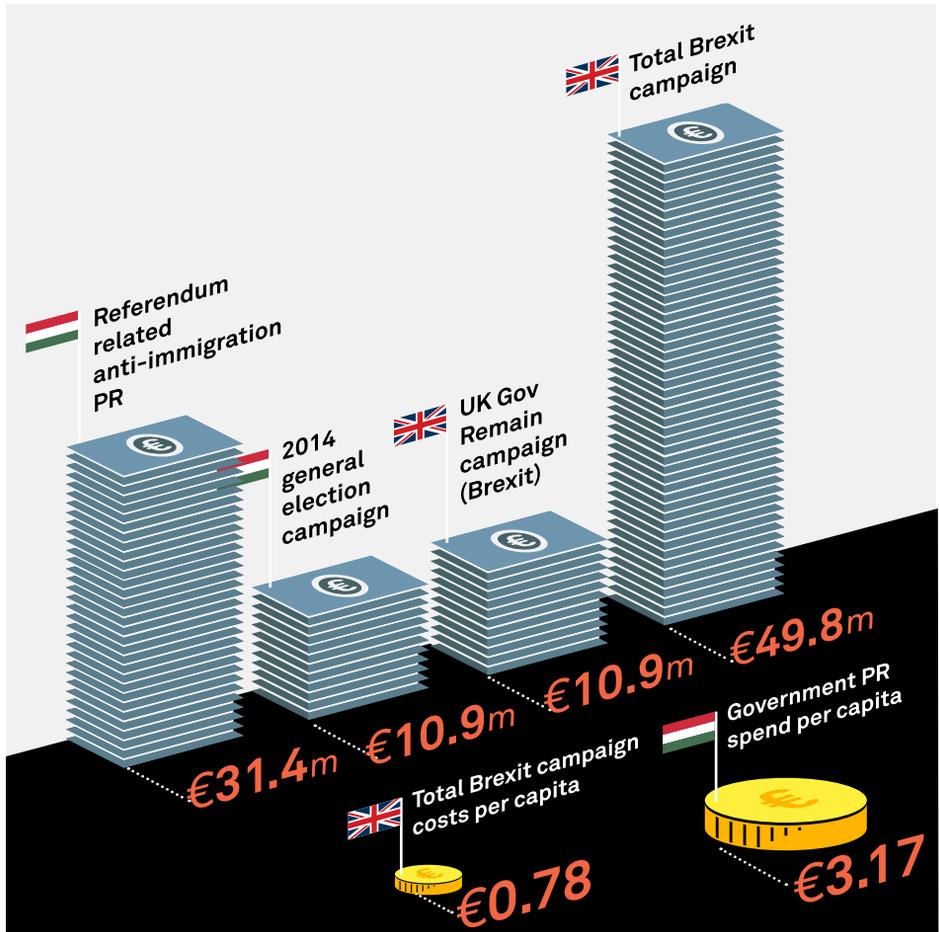
Hungary’s referendum on 2 October 2016 asked if the EU should be able to force Hungary to accept refugees. The poll was highly controversial for many reasons: the question was framed in a biased way; the result had unclear legal implications as EU law cannot be changed by one member state; and the whole vote may have been in conflict with the constitution, which does not permit referendums on international obligations.

A few days after the referendum was announced on 24 February, the Fidesz-led government launched a six month anti-immigration campaign at a cost of just under €16 million. The government spent a further €16 million campaigning for a ‘no’ vote during the official referendum campaign. This amounts to almost

three times the combined amount all parties spent campaigning in the 2014 general elections, and about two-thirds of the cost of Brexit campaigns.

Per capita, the Brexit campaign was four times cheaper at €0.78 per person compared to €3.17 for Hungary’s referendum campaign, which (unlike Brexit) was entirely funded by taxpayer’s money. Many critics viewed the referendum as purely political, with no tangible legal or policy impact – Prime Minister Victor Orbán engaging in anti-EU posturing to bolster his position. The politicised nature of the referendum makes the disproportionate costs particularly questionable, amounting to spending public money on political PR.

Referendum campaign spending compared to 2014 elections and Brexit >>





FIDESZ OLIGARCHS WIN LARGE PUBLIC CONTRACTS IN NON-TRANSPARENT PROCESS

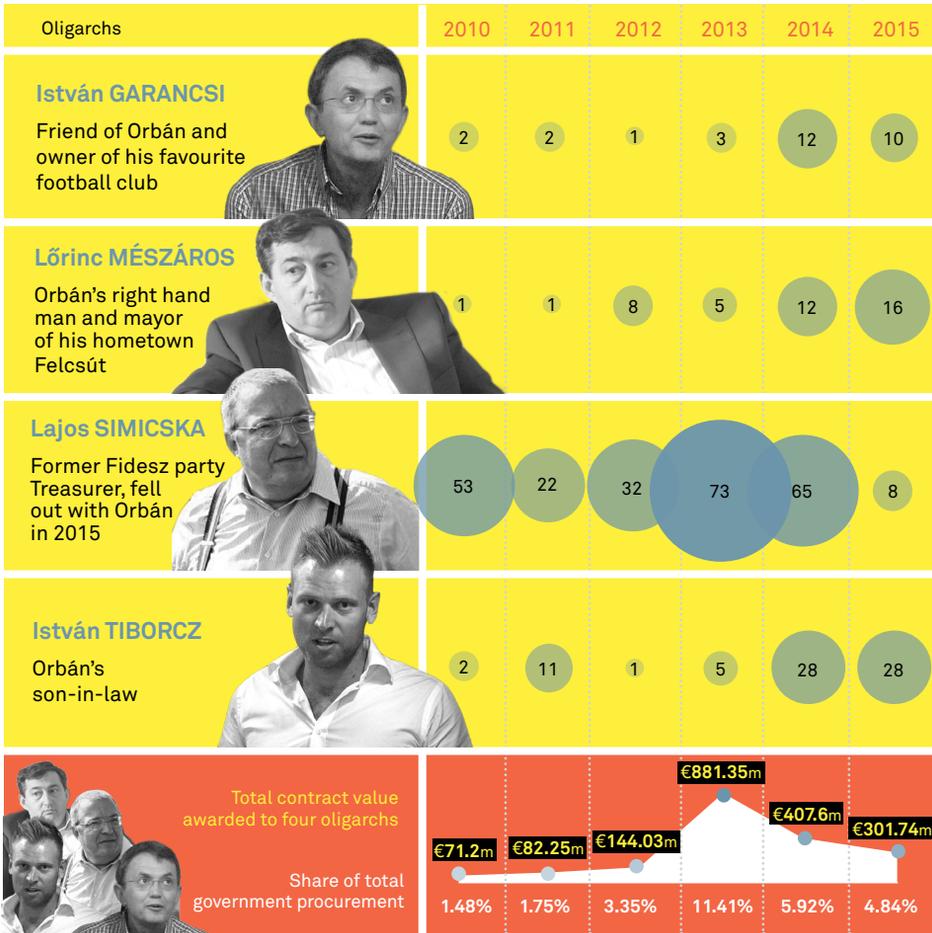
Transparent, impartial and effective public procurement is the cornerstone of good governance. Since Victor Orbán was elected in 2010, oligarchs with personal connections to the Prime Minister have been highly successful in winning government contracts. According to Transparency International Hungary, four oligarchs with close links to the Fidesz party won over 11% of the total value of public contracts awarded in 2013, amounting to 273 billion HUF (€880 million).

Lajos Simicska, a former Fidesz Treasurer and key party figure, was highly successful in winning government contracts until he fell out with Orbán at the beginning of

2015. The other three oligarchs, including his son-in-law, and the mayor of his hometown, have enjoyed a general upward trend in terms of successful government bids. Over six years, the four oligarchs won 401 public contracts valued at over €1.88 billion.

Transparency International estimates that public contracts in Hungary are overpriced by up to 25%. In 2013, it is estimated public contracts were overpriced by 478 billion HUF, effectively stealing 48,000 HUF from every taxpayer (€156). This, in addition to the non-impartial award of contracts, indicates that significant public funds are being siphoned off by a handful of oligarchs.

Public contracts awarded to Fidesz oligarchs >>



Democracy Reporting International (DRI) is a non-partisan, independent, not-for-profit organisation registered in Berlin, Germany. DRI promotes political participation of citizens, accountability of state bodies and the development of democratic institutions world-wide. DRI helps find local ways of promoting the universal right of citizens to participate in the political life of their country, as enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

This analysis was financed with DRI's own funds.

Images on page 11 (c) MTI and Népszabadság/NOL.hu



@DemocracyR



/democracy.reporting

Democracy Reporting International
Prinzessinenstr. 30
D-10969 Berlin
Germany