



## RECOMMENDATIONS

### AIMED AT RESTORING THE FREEDOM OF EXPRESSION IN HUNGARY

2019

Media freedom has further deteriorated in Hungary. The establishment of the Central European Press and Media Foundation ("KESMA" in Hungarian) in November 2018 has created an unprecedented level of concentration of media ownership. The new media empire was created by owners donating 476 media outlets, including websites, newspapers, television channels and radio stations to the foundation. A vast array of a total of media outlets, including the entire regional daily newspaper market, the only commercial radio station that broadcasts nationally, the largest online news site, as well as a variety of political and tabloid newspapers, are now openly held by the pro-government conglomerate KESMA. Based on revenue, pro-government media control about 80% of the news media market and coverage of political content. Reportedly, state advertising spending, especially the government's various political campaigns, substantially contribute to the funding of this media empire. Neither the Competition Authority nor the Media Authority had investigated the merger.

Public service media (in Hungary it is often referred as state media) continues to engage in propagandistic editorial practices. In December 2018, a series of peaceful demonstrations took place in front of the headquarters of the public broadcaster MTVA, and some opposition MPs managed to get into the building. Several of them were subsequently subject to physical assaults by the security personnel after they intended to broadcast a petition. For several years, the majority of these opposition MPs have not been invited to the public broadcaster for interviews or comments, while the state media outlets systematically provide plenty of air time for government-affiliated politicians and experts who follow the government's narrative in their comments.

The Media Council has been a politically homogeneous media authority since 2010. It restructured the radio market by the frequency tenders, vast majority of independent radio stations disappeared from the market in the last few years. The Media Council allowed all acquisitions and mergers involving pro-government players, while it stopped the media mergers when independent market players were involved.

Journalists of government-critical media are often seriously hindered while doing their job. They are regularly banned from entering the Parliament or from attending different events. In 2015, at the height of the "refugee crisis", journalists were denied entry to open asylum reception facilities, which was found to be a violation of the right to freedom of expression by the European Court of Human Rights. Government politicians do not give interviews to government-critical media outlets. Press departments of public institutions typically do not reply to questions of independent media.

## RECOMMENDATIONS ON MARKET DISTORTION

1. **Fair competition** in the media market in Hungary should be ensured. Ownership concentration should be decreased.
2. Ensure **transparency and proportionality of the placement of state advertisement**. All state advertising spending should be transparent, all media outlets involved in public campaigns should publish all incomes from these sources. The placement of the state advertising must be based on audience reach, and must not be discriminatory based on political considerations.
3. **End other media distortion practices** by:
  - (a) reforming radio frequency tendering by the Media Council;
  - (b) decreasing the role of the state in the entire media-ecosystem (sales houses, media agencies);
  - (c) drop the time limit on duration of news programs (max 45 minutes) for televisions with significant market power (RTL and TV2, two commercial television channels)
4. **Political campaigns by the government** should be entirely prohibited as they distort the market. Party political communication and information of public interest must be separated consistently in law and in practice. The Media Council should review its interpretation of the notion of "political advertisement", and the new interpretation should be in line with the original intentions of the legislation: political advertisement can be broadcast only during election campaigns.
5. The European Commission should take appropriate action to prohibit the misuse of public funds as **state aid** for distorting the media market and indirectly the market of ideas.

## RECOMMENDATIONS ON THE PUBLIC SERVICE MEDIA

6. Hungary should **comply with European Commission requirements** regarding state aid to public-service media and should fully adopt guidelines suggested by the Communication from the Commission on the application of State aid rules to public service broadcasting (2009/C 257/01).
7. **Create transparency** in the operation and financing of public service media, abolish the duplication of the organization (MTVA vs Duna Media Service Provider) which was created to hide the spending of MTVA (ca. 280 million euros/year)
8. End the news service of public service media offered to radio stations; plurality of news making is required even if centralized news making is cost-saving for the radio stations.
9. **Editorial independence of public service media** must be formally guaranteed, including unbiased news-making and fair representation of opposition parties in debates.
  - (a) all public media services should have their own responsible newsrooms;
  - (b) an internal procedure should be set up with independent professionals to handle complaints about the information practice;
  - (c) during election campaigns, the public service television should be obliged to organise the debates of candidates for prime minister and/or leaders of the party lists on its channel with the biggest reach.
10. The **public oversight** over the functioning of public media should be relevant and unbiased.
  - (a) The Board should be established in a way that ensures that the interests of the ruling parties cannot be vindicated exclusively;
  - (b) The Board should have control over the whole institutional system, first of all, over the relevant decision-making organisations, namely the MTVA and the managing director of MTVA;
  - (c) all managing directors should be appointed based on an open call and on professional applications;
  - (d) journalism organizations and NGOs should participate in the public oversight body.

## RECOMMENDATIONS ON THE MEDIA AUTHORITY

11. The **Media Council** should be reformed as a general regulatory body. Members delegated by opposition parties have to be guaranteed. The term of office of the members must be reduced from the current 9 years and mandates have to end when the member's term expires (as provisional rules in the law make it possible for members to stay in office practically for life).
12. Ensure the **transparency** of the Media Council's operation
  - (a) radio tendering and renewal of the licences has to be transparent, tenders must be published after the procedure;
  - (b) clear and verifiable rules are required about sanctions against media service providers;
  - (c) clear and verifiable rules are required about authorising or barring media market mergers;
  - (d) the decisions of the Media Council and their reasonings have to be published on the website of the Media Council.
13. The European Commission should monitor the **independence of national regulatory bodies** to assess compliance with the new Article 30 (2) of the Audiovisual Media Service Directive

## RECOMMENDATIONS ON ACCESS TO INFORMATION

14. Any restrictions on **parliamentary reporting** should be in line with European standards established by the European Court of Human Rights. Reporting about the work of the Parliament should be free from anywhere in the building of the Parliament. According to the case *Selmani and Others v. "the former Yugoslav Republic of Macedonia"* (application no. 67259/14), journalists cannot be banned from the Parliament building, only if they are in danger or they are the origin of any disorder.
15. **Non-discriminatory access to public information has to be ensured.** Politicians and public organisations must answer all journalists' questions irrespective of their alleged political affiliation. Press conferences should be open to every journalist, who should all be afforded a real opportunity to ask relevant questions.
16. **Leaders of public institutions** (schools, hospitals etc) should not be limited by the minister in communicating with the press.
17. By changing the **freedom of information act** there should be guaranteed that public data is provided for timely and for free, or only for compensating the costs of making copies but not of the employment time.

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