



**Response of the Hungarian Helsinki Committee  
to FRANET Service Request no. 25. – Mapping and analysis of human rights structures in the EU**

14 February 2024

<b>Name</b>	Magyar Helsinki Bizottság / Hungarian Helsinki Committee
<b>Address (indicate if there are local offices) and website</b>	Hungary, 1074 Budapest, Dohány u. 20. II/9. <a href="http://www.helsinki.hu">www.helsinki.hu</a>
<b>Legal source, if relevant/available</b>	N/A
<b>Describe the mandate/overall function of the structure/platform/ mechanism</b>	The Hungarian Helsinki Committee (HHC) is an independent human rights watchdog organisation based in Budapest, Hungary, founded in 1989. The HHC focuses on defending and promoting democratic values, the rule of law, and a robust civil society; the right to asylum and international protection for refugees and stateless persons; and the right to be free from torture or inhuman treatment and punishment and to be tried in a fair criminal justice system. The HHC contributes to monitoring Hungary’s compliance with relevant UN, EU, Council of Europe, and OSCE human rights standards and cooperates with international human rights fora and mechanisms. The organisation works with a full-spectrum approach, combining several methods: direct legal assistance, strategic litigation, field monitoring, research and reporting, international advocacy, training, communication, and legal empowerment.
<b>Regular and structured cooperation/coordination with</b>	(1) Until 2017, the HHC had formal memoranda of understandings with the National Penitentiary Headquarters (to conduct human rights monitoring in penitentiaries), with the National Police

<p><b>actors/mechanism in the executive branch of government or judicial branch (examples, including formal documents addressing such cooperation such as action or plans or memoranda of understandings)</b></p>	<p>Headquarters (to conduct human rights monitoring in police jails and immigration detention facilities), with the Asylum and Immigration Office (under various names, to conduct human rights monitoring in open and closed asylum reception facilities) and a tripartite agreement concluded originally between the Border Guards (later merged into the Police), UNHCR, and the HHC to conduct human rights border monitoring. All of these were <a href="#">unilaterally terminated</a> by the authorities in 2017, ending not only the only external and regular monitoring possibility in these facilities and areas (with the HHC being the only civil society organisation carrying out such monitoring), but also the regular and structured consultation opportunities with these authorities. Since Hungarian civil society organisations (CSOs) are not involved in the monitoring visits of the National Preventive Mechanism (NPM) under the OPCAT either, abolishing lay monitoring has significantly weakened the protection of detainees’ rights and the chances of revealing systematic problems.</p> <p>(2) Cooperation and coordination with actors in the executive and judicial branch have severely declined in recent years. Currently, most authorities refuse to cooperate with the HHC, reject invitations to its workshops and participation in its researches. Examples for the lack of cooperation include the following.</p> <p>Until 2013, the HHC’s Refugee Programme held annual workshops organised together and with the participation of judges, the asylum and immigration authority, the prosecutor’s office, the Ombudsperson, and UNHCR. Until 2016, the HHC regularly held trainings on matters related to international refugee law for Hungarian judges and authorities. HHC’s trainers continue to carry out such activities across the world until today, except in Hungary.</p> <p>Until 2018, government officials also attended the events organized by the HHC’s Justice Programme, and state authorities and law enforcement agencies such as for example the National Police Headquarters participated in projects implemented by the HHC. Currently, for example prosecutors need to ask for permission to attend professional events organized by the HHC, and this permission has not been granted in any of the instances so far. In 2019, a judicial official <a href="#">sent a circular</a> to judges warning them not to attend a training by the HHC. Recently, in March 2023, the Kúria (the top court of Hungary) organised a conference dedicated to the “Institutional Guarantees of Judicial Independence”. Hungarian CSOs covering the topic, including the HHC, requested to attend the conference but were <a href="#">rejected</a> by the organisers “due to the lack of space”.</p> <p>State authorities only respond to HHC’s requests for information if it is mandatory under the law on freedom of information. It has been a recurring problem that the Commissioner for Fundamental Rights</p>
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	<p>(the Ombudsperson of Hungary) does not even respond to HHC’s letters related e.g. to the rights of asylum-seekers and migrants (see <a href="#">in detail from p. 15</a>).</p> <p>As an exception to the general trend above, in 2024, the HHC was granted a meeting with the National Election Office.</p> <p>(3) The Commissioner for Fundamental Rights established a <a href="#">Civil Consultative Body</a> in 2014 to utilize the practical and/or high-level theoretical knowledge of various organisations registered and operating in Hungary relative to the treatment of persons deprived of their liberty, consisting of members representing CSOs and churches. Members are selected as a result of a public call for application, and they assist the activities of the NPM with recommendations and comments. The HHC has been a member of the Civil Consultative Body since 2014.</p> <p>(4) In March 2023, the HHC was selected as the CSO responsible for fundamental rights in the monitoring committee of the 2021-2027 Internal Funds Plus Programmes implemented in Hungary.</p>
<p><b>Regular and structured cooperation/coordination with parliamentary actors/mechanisms (examples, including formal documents addressing such cooperation such as action or plans or memoranda of understandings)</b></p>	<p>Even though public consultation on laws prepared by ministries has been mandatory since 2011, in recent years, public consultation on draft laws has virtually ceased in Hungary: as pointed out e.g. by the 2022 European Semester’s Country Specific Recommendations, “[n]ational rules on the obligatory public consultation of draft legal acts and their impact assessments have been systematically disregarded” by the Government. In 2022, the respective law (Act CXXXI of 2010 on Public Participation in Preparing Laws) was amended and the Government made a commitment to the European Commission in the context of accessing EU funds to abide by existing legal obligations to carry out public consultation ahead of submitting bills to Parliament. However, general experience from 2023 shows that the impact of this remains rather limited, and the practice of public consultation remains deeply flawed (see in detail <a href="#">here on pp. 69-72</a>). This is reflected by HHC’s specific experiences as well. Since the 2022 amendment of the law and the subsequent publishing of draft laws for commenting, the HHC has been providing expert opinions on published bills. However, in not one instance did the Government take into account any of the HHC’s comments or suggestions (at least formally, with the exception described below), nor did it provide reasons for the rejection in a meaningful way.</p> <p>Between 2019 and 2022, the HHC, jointly with other CSOs, sent repeated requests to the Ministry of Justice to discuss legislative developments concerning the judicial system and judicial independence in Hungary, but to no avail. However, after the respective milestones in Hungary’s Recovery and Resilience Plan set</p>

	<p>out that the Government is required to organise a stakeholder consultation with, among others, CSOs on the draft laws realizing the judicial reform required by EU institutions for Hungary to access EU funds, in February 2023, CSOs, including the HHC, were <a href="#">invited</a> to the Ministry of Justice to discuss the draft law on the judicial reform, and their comments and suggestions made at the meeting and in the framework of the public consultation were, to a certain extent, taken into account. This, in turn, was again undermined by the Government circumventing obligatory public consultation via using the Legislative Committee of the Parliament (a super committee the composition of which reflects that of the Parliament and which can introduce amendments to any bill directly prior to the plenary vote) to adopt the judicial reform: in May 2023, the Legislative Committee introduced the final judicial package as an amendment to a bill on asset declarations, <a href="#">violating the Parliament’s Rules of Procedure</a>; while in December 2023, a <a href="#">last-minute amendment</a> by the Legislative Committee to an unrelated bill changed the rules related to preliminary references to the Court of Justice of the European Union (CJEU).</p>
<p><b>Regular and structured cooperation/coordination with actors at international and EU level (examples, including formal documents addressing such cooperation such as action or plans or memoranda of understandings)</b></p>	<p>In contrast to the lack of cooperation from domestic authorities as described above, the HHC is regularly consulted by relevant members and committees of the European Parliament (e.g.: intervention at the LIBE Committee’s <a href="#">Frontex</a> Scrutiny Working Group) and the Parliamentary Assembly of the Council of Europe (e.g.: intervention at the <a href="#">Committee on Migration, Refugees and Displaced Persons</a>).</p> <p>The HHC contributes to all major regional and international reporting cycles, including</p> <ul style="list-style-type: none"> <li>• the Universal Periodic Review (see all HHC submissions <a href="#">here</a>),</li> <li>• the UN Human Rights Committee (see all HHC submissions <a href="#">here</a>),</li> <li>• the special mechanisms of the UN (see e.g. the HHC’s <a href="#">report</a> to UN CERD to the 18<sup>th</sup> through 25<sup>th</sup> periodic reports of Hungary or its 2019 <a href="#">report</a> to the UN CRC),</li> <li>• relevant special mandate holders of the UN (see e.g.: <a href="#">submission</a> to the UN Special Rapporteur on the human rights of migrants on pushbacks, <a href="#">intervention at the launch event</a> of the UN Special Rapporteur on the situation of human rights defenders’ report on the situation of HRDs working on the rights of refugees, <a href="#">submission</a> to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, or the <a href="#">input</a> for a report by the UN Special Rapporteur on torture),</li> <li>• the Commissioner for Fundamental Rights of the Council of Europe,</li> </ul>

	<ul style="list-style-type: none"> <li>• the Committee of Ministers of the Council of Europe (in the form of “Rule 9 communications” on the non-implementation of various European Court of Human Rights judgments),</li> <li>• various special bodies of the Council of Europe (e.g. the CPT, see e.g. the 2023 submissions <a href="#">here</a> and <a href="#">here</a>), and</li> <li>• the OSCE (see e.g. the HHC’s <a href="#">statements</a> to the OSCE HDIM in 2018, its 2021 <a href="#">statement</a> to the OSCE Supplementary Human Dimension Meeting on Democratic Law-Making: Ensuring Participation, and its <a href="#">statements</a> at the 2023 Warsaw Human Dimension Conference).</li> </ul> <p>See a non-exhaustive collection of HHC submissions and reports to various international organisations <a href="#">here</a>.</p>
<p><b>Is the EU Charter frequently and explicitly mentioned in the work of the body/mechanism?</b></p>	<p>The HHC heavily relies on both the EU Charter of Fundamental Rights and the European Convention on Human Rights in both its advocacy and when providing legal assistance and representation to its clients. Domestic courts have referred a number of preliminary ruling requests to the CJEU in asylum-related matters where the HHC provided legal representation, and the HHC has submitted several formal complaints to the European Commission, citing, among others, the EU Charter, in cases where domestic legislation breaches EU law (e.g.: <a href="#">C-564/18 L.H. v. BMH</a>, <a href="#">C-556/17 Torubarov v. BMH</a>, etc.). As far as research and advocacy activities are concerned, the Charter was recently also cited e.g. in the civil society assessments of Hungary’s compliance with the various conditions to access EU funds, co-authored by the HHC (see e.g. <a href="#">here</a> and <a href="#">here</a>). Further examples include the <a href="#">joint paper</a> by HHC and Amnesty International Hungary listing potential breaches of EU law by Act LXXXVIII of 2023 on the Protection of National Sovereignty, including the Charter.</p> <p>Furthermore, the HHC has been participating in EU-funded domestic and international projects focusing on the Charter. The HHC’s <a href="#">“CharterWise – Making the EU Charter a leading human rights litigation tool in Hungary”</a> project, carried out together with the Hungarian Civil Liberties Union, aims at bringing the Charter from the attention periphery of the legal profession to the centre of the human rights litigation scene in Hungary, e.g. through trainings for attorneys and civil society representatives, and piloting an academic curriculum on the Charter. The <a href="#">“STARLIGHT – Strategic Litigation for Rights in Europe”</a> project the HHC is a partner of facilitates the more effective use of the Charter by providing legal practitioners in various EU Member States with the skills and knowledge to apply the Charter in strategic litigation.</p>

<p><b>Does the body regularly contribute to the implementation of EU law and policies?</b></p>	<p>Yes.</p> <p>The most relevant piece of EU legislation and most often used EU Charter rights:</p> <ul style="list-style-type: none"> <li>• EU Charter of Fundamental Rights, Articles 6, 7, 18, 19 and 47;</li> <li>• the asylum acquis;</li> <li>• the so-called “Roadmap Directives”, aimed strengthening procedural rights of suspected or accused persons in criminal proceedings.</li> </ul>
<p><b>Please summarize, if applicable, major positive trends over the last decade (in terms of resources, mandate, performance, interaction)</b></p>	<p>(1) As referred to above, following the dissolution of the monitoring committees originally set up for the 2021-2027 MFF cycle due to their lacking independent civil society members, the HHC was selected in early 2023 by the Government as the CSO responsible for fundamental rights in the monitoring committee of the 2021-2027 Internal Funds Plus Programmes implemented in Hungary. Meetings of the monitoring committee currently provide one of the very few platforms of engagement with the Government and state authorities.</p> <p>(2) As also referred to above, the HHC has been a member of the Ombudsperson’s Civil Consultative Body since 2014.</p>
<p><b>Please summarize, if applicable, major negative trends over the last decade (in terms of resources, mandate, performance, interaction)</b></p>	<p>Rule of law backsliding and shrinking civic space in Hungary after 2010 had major negative implications on Hungarian CSOs, including the HHC. In the past decade, independent CSOs have been vigorously attacked by the Hungarian government, with attempts to stifle CSOs including extensive smear campaigns (including such <a href="#">extremities as legitimising the execution</a> (!) of HHC’s staff) and rhetorical attempts of intimidation, launching ill-founded legal procedures against CSOs, and hindering their work via various means. The series of attacks culminated in the adoption of laws such as the Russian-style 2017 law stigmatising certain CSOs as “foreign-funded organisations” and the “Stop Soros” law criminalizing assistance to asylum-seekers (both found to be in violation of EU law by the CJEU). In 2023, a number of laws negatively affecting civil society space continued to be in force, administrative measures designed to hamper the operation of CSOs continued, and organised public campaigns against CSOs receiving foreign funding intensified. (For details, see e.g. the HHC’s 2023 <a href="#">submission</a> to the OSCE or its <a href="#">response</a> to FRANET Service Request no. 14. – Threats to democratic values, pp. 2-7.) In addition, in December 2023, the Hungarian Parliament adopted Act LXXXVIII of 2023 on the Protection of National Sovereignty, aimed at <a href="#">silencing critical voices</a>.</p>

	<p>As described in detail above, engagement, let alone meaningful engagement for the HHC with most of the state authorities, relevant committees of the Hungarian Parliament, ministries, etc. (i.e. excluding the possibility to submit opinions on draft legislation which are then not taken into account) has gradually become scarce after 2012 and virtually ceased to exist following the adoption of the 2017 law stigmatising certain CSOs as “foreign-funded organisations”.</p>
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