HUNGARIAN HELSINKI COMMITTEE

OSCE Warsaw Human Dimension Conference 2026

Plenary Session 5: Rule of Law II: Independence of the judiciary, Democratic law-making

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The Hungarian Helsinki Committee (HHC), founded in 1989, is an independent human rights watchdog dedicated to protecting human dignity through legal and public activities. The HHC wishes to draw the attention of the Organisation for Security and Co-operation in Europe (OSCE) to developments and persisting deficiencies regarding Hungary's law-making process, the independence of its Constitutional Court, and the independence of its ordinary judiciary.

The elections in April 2026 in Hungary resulted in a change of government, providing an opportunity for democratic renewal after 16 years of rule of law backsliding. Since the new government took office, positive developments and important legislative and other steps have taken place, but these remain far from comprehensive, and in some areas the promised changes have yet to materialise, making continued international monitoring inevitable.

1. Law-making

Transparent, inclusive and predictable law-making is a cornerstone of democratic governance and the rule of law. In Hungary, however, the law-making process has increasingly departed from international and European standards in recent years, undermining legal certainty, participation, and oversight.[1] In contrast, ensuring public participation features as a priority in the new government's communication. However, the development of the respective new institutional structure is still ongoing, while the legal framework remains largely unchanged, leaving room for abuse.[2]

In particular, the legal framework on public consultation by the ministries over draft laws has not changed, and problems such as the excessively broad scope of exemptions from the obligation to consult and the too short minimum consultation period remain. Failure to consult is not subject to any genuinely deterring legal consequence, and it still occurs that the government circumvents public consultation by having Members of Parliament table draft legislation that is part of government policy, since then consultation is not prescribed. Instead of a consultation, a five-day "public dialogue" took place regarding the 17th Amendment to the Fundamental Law. Although the state of danger, which "expired" on 13 May 2026, was not extended, ending the possibility for the government to override Acts of Parliament after six years, a number of emergency decrees were elevated to the level of an Act of Parliament, becoming part of the ordinary legal order. The Parliament's Rules of Procedure remain unchanged, giving considerable leeway to committees dominated by the ruling majority, and

[1] For an overview, see the HHC's mapping paper from 2025: https://helsinki.hu/en/wp-content/uploads/sites/2/2025/08/HHC_law-making_process_mapping_paper_2025.pdf.

[2] For more details, see Section 4. of the following civil society assessment: https://helsinki.hu/en/wp-content/uploads/sites/2/2026/10/CSO_assessment_Article_7_procedure_05102026.pdf.

the maximum number of certain "fast-track" legislative procedures was increased until the end of the year. Promising steps have been taken regarding the institutional structure, but some of these structures are not yet operational or has only just begun to effectively function, and it remains unclear how the new structures relate to one another and to the ministries' public consultation obligations.

2. Independence of the Constitutional Court

The previous governing majority systematically dismantled the system of checks and balances, weakened constitutional institutions and undermined their independence, depriving institutions such as the Constitutional Court (CC) of their ability to act as effective checks on the executive branch. This also significantly weakened the system for the protection of fundamental rights. While after the change in government the restoration of the system of checks and balances has begun, solutions chosen have raised concerns in some cases, and measures to ensure the long-term independence and effectiveness of human rights protection institutions have so far been implemented only partially.

As regards the CC, legislative measures taken to strengthen it include, for example, the removal of the restriction whereby the CC could carry out the constitutional review of laws concerning public finances only within a very narrow scope; that the CC President will once again be elected by the CC justices themselves, rather than by the Parliament; and the reinstatement of the rule that only those who have completed the required 20 years of professional experience in a role requiring a law degree may serve as CC justices. The 17th Amendment to the Fundamental Law also reintroduced the rule that the term of office of CC justices expires upon reaching the age of 70 – as a result of this and another amendment, by 1 September 2026 the mandates of five justices ended before their term of office expired. However, the rules on the election of CC justices were not amended; consequently, the new justices elected since then have been appointed solely by a two-thirds majority in Parliament, just as their predecessors, in a process that does not involve any actors outside the governing party. The independence of the body is thus, for the time being, not guaranteed in the long term. Nor have any steps been taken to improve the accessibility and effectiveness of the CC.[3]

3. Independence of the judiciary

Since 2010, the previous ruling majority has undermined judicial independence as part of its efforts to dismantle the system of checks and balances. Concerns in this regard have arisen in a number of areas and have jeopardised the independent operation of the judiciary and the right to a fair trial.[4]

After the change of government, only limited developments have taken place in the legal framework. For example, the 17th Amendment to the Fundamental Law introduced the judges' involvement in the nomination process of the presidents of the Kúria (Hungary's top court) and the National Office for the Judiciary (the central court administration body) as well as in "recalling" them (with the latter solution criticized by multiple stakeholders), but the detailed statutory provisions of the procedures to be followed are yet to be adopted by the Parliament.[5] The lack of further legislative measures means that several structural deficiencies remain in place. For example, there is no lasting solution in sight for the adequate remuneration of judges and judicial staff, nor is there any draft legislation on

[3] See in more detail: https://helsinki.hu/az-alkotmanybirak-kivalasztasanak-reformja-nelkul-nem-allhat-helyre-az-alkotmanybirosag-fuggetlensege/.
[4] For an overview, see the HHC's related written statement for the OSCE Warsaw Human Dimension Conference 2025: https://helsinki.hu/wp-content/uploads/2025/11/OSCE-Warsaw-Human-Dimension-Conference-2025-judiciary.pdf.
[5] For details, see the HHC's opinion on the draft of the 17th Amendment to the Fundamental Law: https://helsinki.hu/en/wp-content/uploads/sites/2/2026/06/HHC-Opinion-Draft-of-17th-Amendment-ENG-28062026-final.pdf, pp. 9–11.

the table aimed at strengthening judges' freedom of expression, leaving the judgment of the European Court of Human Rights in the *Baka v. Hungary* case unexecuted. The Kúria's ability to block the direct effect of EU law remains, and further legislative amendments would be necessary to ensure that the National Judicial Council (NJC, the judiciary's self-governing body) can effectively fulfil its constitutional role. At the same time, the fact that the systematic governmental attacks on judges and the courts have ceased after the change of government, that the Prime apologised to the judges who had been targeted by the previous government, and that a high-level meeting took place between the NJC and the Minister of Justice, emphasising the need for regular and constructive dialogue, are positive developments forecasting potential further improvements in the legal framework.

Recommendations

The deficiencies described above reflect persistent weaknesses in Hungary's democratic law-making process and the independence of institutions responsible for safeguarding the rule of law and fundamental rights. While steps towards restoring institutional checks and balances have been taken since the change of government, further reforms are necessary to ensure lasting improvements.

The Hungarian Helsinki Committee calls on the OSCE and OSCE participating States to:

1. Encourage the Government and the Parliament to fully **observe the requirements set out in "ODIHR Brief: Guiding Principles of Democratic Lawmaking and Better Laws"**.

2. Urge the Government of Hungary to ensure **meaningful public consultation on all draft laws**, with adequate timeframes, proper consideration of input received, and effective safeguards against circumvention.

3. Encourage the Parliament of Hungary to **strengthen parliamentary scrutiny and debate**, including by limiting the use of "fast-track" procedures and avoiding last minute amendments in committees.

4. Urge the Government and the Parliament of Hungary to ensure that **the envisaged constitution-making process is transparent, inclusive and based on meaningful public participation** and broad political and professional consultation.

5. Urge the Parliament of Hungary to **reform the selection of Constitutional Court justices** to ensure a transparent and pluralistic process that safeguards the Constitutional Court's independence; and to **strengthen the effectiveness and accessibility of the Constitutional Court** as a safeguard of fundamental rights and the rule of law.

6. Urge the Government and the Parliament of Hungary to **strengthen judicial independence and self-governance**, including by safeguarding the effective functioning and adequate resourcing of the judiciary and judges' freedom of expression.