

ANNEX

Closed cases before various organisations

(11) National consultation "Let's stop Brussels"	In the framework of the "Let's stop Brussels" national consultation 1.68 million citizens provided guidance for the Government. The title of the consultation expresses the intention to halt the transfer of national competences to the EU, and to prevent politics from extending beyond what is laid down in the Treaties. Hungary is fighting for a strong Europe: we have to do away with terrorism, regain security and become again competitive in the global market.
(15) Compulsory retirement of judiciary staff	Following the ruling of the CJEU, the Commission continuously monitored the implementation of the new Hungarian law on retirement and at the end of 2013 closed the infringement procedure by voicing its satisfaction with the measures taken by Hungary that also guaranteed reinstatements to leading administrative positions. The case is closed.
(17) Violation of the right of access to a court	The reinstatement of the former President of the Supreme Court is not possible, since his original term of office already expired before the judgment (in 2016), and the position will not be vacant until 2021. As regards any financial consequences of the premature termination of the applicant's mandate, <i>in integrum restitutio</i> was provided by the just satisfaction awarded by the ECtHR. The case is closed.
(18) The expiry of mandate of the Data Protection Supervisor	The Commission accepted the measures taken by Hungary as implementation of the CJEU decision, and ended the case in 2014 .
(29) Act on Freedom of Information	The OSCE found in March 2016 that the charges set by the Hungarian law for direct costs of information requests appeared to be entirely reasonable.
(30) Restrictions of the media during the 2018 elections	Political advertisements can be published through any media service; advertisements of candidates shall be published on equal rather than on market terms and without any consideration. Earlier case is closed.
(39) Audits of Norwegian funded NGOs	The Hungarian Government signed an agreement with the NGO Fund of the EEA/Norway Grants in December 2015 . The payments of the Norway grants continue to operate undisturbed, complying with the transparency criteria of the rule of law.
(40) The law on the Transparency of Organisations Receiving Support from abroad	In 2017 the Council of Europe in its Resolution 2162 (2017) has acknowledged that the Hungarian law did not include discriminatory reference to NGOs.
(47) Working conditions for pregnant workers	The safety of pregnant and nursing workers, also the equal treatment in the world of work is one of the top priorities of the Hungarian Government's employment policies. After legislative amendments, the Commission closed the case on 7 June 2018 .
(60) Freedom of expression concerning minorities	Even the report acknowledged the achievements of the Hungarian Government: the modification of the Penal Code whereby it punishes inciting violence or hatred against a member of a community, and the establishment of a Working Group Against Hate Crime.

Other issues requiring factual corrections or comments

(14) New system of administrative courts.	The Hungarian Supreme Administrative Court traces its tradition back to 1883. This court was abolished by the communist dictatorship in 1949, because it was regarded as the previous framework of the rule of law. The new model, through the principles of judicial independence and of fair trial, shall ensure compliance with the requirements of the rule of law and at the same time enforce the internal characteristics of administrative law.
(16) Violation of the right to a fair trial and remedy	A new law planned to be considered in October 2018 will create an effective remedy for prolonged procedures in all judicial procedures.
(19) Criticisms concerning the prosecution service	There is an ongoing dialogue between GRECO and the Hungarian authorities. The Venice Commission stated that most issues raised in their opinion do not threaten the rule of law.
(25) Violation of the respect for private life	Proposals for the amendments of the Act on National Security Services are being discussed by the experts of the ministries concerned in order to examine the requirements arising from the ECtHR's judgment regarding legislative amendments.
(33) Academic freedom	The activity of foreign higher education institutions is subject to two conditions: a bilateral agreement and the actual education activity by the applicant in its home country. The aim of the 2016 revision of the law was to ensure that only high quality foreign institutions may operate in Hungary. The European Commission stated that some Member States do enact special legal requirements for higher education institutions with headquarters in a foreign country. Sweden, the Czech Republic, Poland, the Netherlands Greece and some parts of Germany have much stricter rules than the new Hungarian law.
(34) Negotiations between the Hungarian Government and foreign higher education institutions	At the request of the foreign institutions concerned and the Hungarian Rectors' Conference in May 2017 , the Government prolonged the deadline set by the Higher Education Act, which was welcomed by the Venice Commission.
(35) Disproportionate restrictions of Union and non-Union universities	The infringement procedure is still pending at the European Court of Justice. It would contradict the basic legal and constitutional principles to prejudge the decision of the CJEU in advance.
(38) Violation of the freedom of conscience and religion	The relevant Act was submitted to the Hungarian National Assembly in December 2015 but it did not obtain the support of the required 2/3 majority. The new rules have not yet been adopted, however compensation has been paid to the applicants.
(42) Law on the Transparency of Organizations Receiving Support from Abroad	The infringement procedure is still pending and ultimately the European Court of Justice is competent to establish whether or not Hungary infringed EU law. It must be noted that the EU legislator recognizes and applies similar rules with a view to enhance transparency on the EU level (e.g. Regulation 1141/2014; the Commission's proposal for Interinstitutional Agreement on a Mandatory Transparency Register).
(51) Roma discrimination	The Hungarian Government is deeply committed and has taken substantial measures even before the Council of Europe recommendations to achieve the integration of Roma people. For instance, the Government adopted the Job Protection Action Plan to foster the employment of disadvantaged employees, and of the long-term unemployed (including Romas). It was Hungary, who put this issue to the EU political agenda during its 2011 EU Presidency.
(52) Segregation of Roma children	Commission infringement proceedings are still ongoing concerning the ban of racial or ethnical discrimination at schools against Hungary, the

	Czech Republic and Slovakia.
(53) Segregated education of Roma children	The Hungarian Government actively conducted dialogues with the Commission, where impartial, evidence-based and cooperative approach was ensured on both sides. In 2017 the Commission acknowledged that with the adaption of the legislative changes the Commission's critics with regards to the legal environment have been addressed. Since then the Commission has not raised any concerns in this matter.
(54) Failure to consider the alleged anti-Roma motive of an attack	The Commission was notified that a proposal for a law pronouncing the Rome Statute of the International Criminal Court (ICC) and its amendments on Article 8 is still pending before the Hungarian National Assembly.
(66) Violation of the applicants right to liberty and security (" <i>Ilias and Ahmed v. Hungary</i> ")	In September 2017 the case was referred to the Grand Chamber of the ECtHR due to the general importance affecting the interpretation and application of the Convention and the legal order of several High Contracting Parties. The Grand Chamber held a hearing on 18 April 2018 and it will deliver its judgment within 1 year.
(69) Infringement procedure regarding Hungarian asylum legislation	Although it was demonstrated that the condition which requires Member States to allow applicants to stay on their territory until a refusal decision enters into force, fully applies in Hungary and despite the recent tendency of the European migration policy, the infringement case has been referred to the Court of Justice of the EU.
(71) Criminalising homelessness	The UN Special Rapporteur addressed this issue, despite the fact that the Fundamental Law declares dignified living as a goal of the state, so the state and local governments aim to avoid homelessness in public areas, as well as to provide basic liveable conditions. The Government encourages with public funds the taking care of people without shelter with establishing care-providing stations, increasing capacity of shelters and criminalising the humiliation of vulnerable person(s). The prohibition of residing in public areas is not unique to Hungary, it also applies in Belgium, the Czech Republic, Cyprus and Malta, Estonia and Austria.

False accusations

(7) Constitutional-making process	The Venice Commission recognized the new and modern constitutions for the former communist countries, which created a framework for society, guaranteed democracy, fundamental freedoms and the rule of law. Following an intense professional and political debate with the involvement of universities, churches and the civil society, the Fundamental Law was adopted with a qualified majority in April 2011 .
(8) Competences of the Hungarian Constitutional Court	Contrary to the negative perception echoed in the report, the Constitutional Court received new competences to initiate preliminary (ex-ante) control of legislative drafts and by reinforcing its competence for subsequent (ex-post) legality control, similar to the German model. In its opinions, the Venice Commission identified a number of positive elements of the reforms, such as the provisions on budgetary guarantees, which is acknowledged by the report itself.
(9) Limitation of the constitutional complaint	Despite the concerns of the UN Human Rights Committee, the Constitutional Court explicitly asked for the abolishment of <i>actio popularis</i>

procedure	due to its high caseload, about which the Venice Commission stated that it was not a precondition for the rule of law to prevail. Overall, the institutional control of the Constitutional Court has been reinforced and it provides for more effective legal protection.
(10) Delineation of single-member constituencies	The Council of Europe acknowledged that by this amendment, Hungary is in compliance with the recommendations of the Venice Commission. The 2018 parliamentary elections with a turnout of 69,73% gave a strong legitimation to the Hungarian National Assembly with one of the largest turnout since the end of communism.
(12) Centralized administration of courts / independence of judges and lawyers	The 2018 EU Justice Scoreboard shows that the Hungarian justice system performs well above the EU average just like in previous years, and the ranking does not illustrate significant discrepancies, especially regarding the guarantees of structural independence.
(13) Competences of the president of the National Judicial Office	Even the report recognizes that several steps have been taken to transfer competences of the president of the National Judicial Office to the National Judicial Council. The GRECO report also acknowledges amendments made concerning the rules of judicial recruitment and the selection procedure. The National Judicial Council already has a decisive mandate in the appointing and promoting procedure of judges and it is not the president of the National Judicial Office who has the most important role in the process.
(20) Conflicts of interest of members of Parliament	The appointment of an MP is not compatible with any national or local public administrative position or any business-related appointment. They cannot pursue any income-providing activity, cannot accept remuneration for any other activity, and they cannot run for mayors. A yearly asset declaration is necessary for both an MP as well as their family members.
(21) Limited monitoring of campaign spending	The maximum amount allowed to be spent for campaign activities is defined by the law, which also establishes strict rules on financing and monitoring of campaign spending by the State Audit Office. Within 60 days after the elections, all candidates and nominating organizations must declare the amount they had spent on public campaigns.
(22) Withdrawal from the Open Government Partnership	All states are freely allowed to join and withdraw from the membership of the Open Government Partnership. Besides Hungary, Austria, Belgium, Poland and Slovakia are not taking part in the OGP, either.
(23) OLAF investigations and non-participation in the European Public Prosecutor's Office (EPPO)	The 2017 OLAF Report shows that in Hungary the indictment rate is 47% on the actions taken by national judicial authorities following OLAF's recommendations, while the average in the EU Member States is 42%. Participation in the European Public Prosecutor's Office (EPPO) is subject to the decision of the Member States in accordance with their constitutional requirements, and Hungary is not the only one staying out of the organization.
(24) Government effectiveness	By proceeding with the steps that have already been taken and by implementing its new objectives, the Government seeks to make Hungary one of the most competitive states in the region by the end of the decade.
(26) Legal framework on secret surveillance for national security purposes	The decision is subject to a subsequent revision by the National Authority for Data Protection and Freedom of Information, which is an independent regulatory body. The Authority's prior consent is required for the surveillance of certain people, and also has control powers over the gathering process.
(27) Media legislation	With the aim of updating the media legislation that dates back to 1986

	and 1995 respectively, in 2010 a new regulation was created that is effective, up-to-date, transparent and protects the editorial independence and freedom expression. Unlike earlier, the new 'Media Constitution' allows journalists not to disclose the source of their information in administrative and judicial procedures.
(31-32) Restrictions of freedoms of the media and association during the 2018 elections	There is no censorship of the internet and no restriction of the media. Social Media sites, including for example, Facebook or Twitter, as well as, YouTube and international blog sites are freely accessible.
(36) Freedom of Conscience and Religion, the Legal Status of Religious Communities	The Hungarian National Assembly expanded the number of recognized churches and the compensation payment ordered by the ECtHR will also be performed.
(37) Unconstitutional deregistration of recognized churches	It is open to religious communities to become a recognized church if they comply with the conditions set by the law. The religious community recognized by the Hungarian National Assembly as 'church' functions as a public law entity, whereas the 'organization conducting religious activity' is a private law association. The Constitutional Court confirmed that this difference did not infringe the right to freedom of religions and the prohibition on discrimination. It should be noted that state religions still exist in several Member States of the European Union, e.g. in Denmark, Finland, Greece, Malta and the United Kingdom.
(41) Disproportionate and unnecessary interference with the freedom of association and expression	The Act on NGOs does not prohibit funding from abroad and does not aggravate the operation of NGOs, it merely makes foreign founding transparent.
(43) - (44) Stop Soros legislative package	It is the primary obligation and right of the Hungarian Government to protect its citizens and national culture. The comprehensive aim of the package is to create an effective supervision over the NGOs intending to influence the migration policy of Hungary. According to the modified Criminal Code, the fostering and support of illegal immigration is a criminal offence, and it sanctions those who organises it and not the illegal migrants. With the organizing behaviour, the perpetrator provides assistance to a person in order to obtain international protection in Hungary by deceiving the public authority or consenting to the obtainment of a residence permit for a person illegally entering or illegally staying in Hungary. The new criminal offence is not applied to human rights lawyers and who exercise their right to a fair trial in official proceedings in a legal way. The legislation is in line with Article 31(1) of the Geneva Convention protecting only those who came from a territory where their lives or their freedom were at risk.
(45) Uneven balance between the protection of families and women's rights	The Government rejects the artificial confrontation of families and women's rights. Women decide on their own lives and they have the freedom of choice whether they wish to have children. We have several programs to support employees in striking the balance between work and family life. According to the 2017 OECD Report, textbooks were revised to ensure that students are not exposed to stereotypes and develop awareness of gender equality. The Government spends 4.7% of the GDP (EUR 3 billion) on financial support for families, compared to an EU average of 2.5%. In 2019 the budget will be increased to EUR 6.25 billion.
(46) The protection of	Hungarian law provides strong protection for women against violence.

female victims of domestic violence	The legal definition of 'violence committed in a relationship' in the Criminal Code covers a broader range of actions to be considered as abuse and punishes these actions more severely than before.
(48) No explicit reference of sexual orientation and gender among the grounds of discrimination	The Fundamental Law contains an open list, which forbids discrimination based on 'any other circumstances'. For this reason, sexual orientation and gender identity fall under strict constitutional protection in Hungary.
(49) Inhuman treatment of persons with disabilities	The Hungarian system provides clients involved in the care with various legal guarantees to protect their rights. As for the allegation of non-investigated cases of death in social institutions, the General Directorate of Social Affairs and Child Protection expects institutions to investigate the cases of deaths occurred, therefore there are no non-investigated cases of death.
(50) Racism and intolerance	Hungary is committed to combat racism, anti-Romanyism and any incitement to hatred. Anti-Romanyism and hate crimes are rooted in prejudice and stereotypes, and the majority of them are committed at the local level. The Hungarian Government is devoted to the social inclusion of the Roma people, approx. 220 000 Roma participate in the Public Works Scheme (PWS) and in other trainings currently. The present government's party (FIDESZ) was the first to send a Romani woman to the European Parliament: Livia Járóka, who presently holds the office of the Vice-President of the European Parliament.
(56) Combatting anti-Semitism	Anti-Semitic voices both in the public and in politics are marginalized. The Hungarian Government has declared several times a 'zero tolerance policy' against anti-Semitism and any incident has been promptly followed by high-level official condemnations. The leaders of the local Jewish community confirmed repeatedly that Jewish life in Hungary is experiencing a renaissance. Israeli Prime Minister Benjamin Netanyahu was the first foreign leader to congratulate Viktor Orbán on his re-election and stated that " <i>Budapest is at the forefront of the states that are opposed to anti-Jewish policy</i> ".
(57) Orban Viktor's 15. March 2018. speech	The speech did not contain any reference to the origin of George Soros, and cannot be considered as anti-Semitism even within the broad concept of the IHRA definition on anti-Semitism.
(58) Roma discrimination, exclusion, unemployment, housing and educational segregation	The Penal Code strictly punishes inciting violence or hatred against a member of a community (see Paragraph 47). The following crimes are also punishable by law: (1) violence against a member of a community; (2) incitement against a community; (3) publicly denying the crimes of National Socialist (including the Holocaust) and Communist regimes; and (4) using symbols of totalitarian regimes.
(62) Violation of fundamental rights on the Hungarian-Serbian border section (report of the Fundamental Rights Officer of the European Border and Coast Guard Agency)	The facts collected by the Report identified three particular cases in 2016 and none of them involved members of the European Border and Coast Guard Agency (Frontex). Its content was not approved by the Executive Director of Frontex, and he did not agree with a significant part of the Report and emphasized that its allegations are not proven and also cannot be connected to Frontex. At the 62nd Frontex Management Board Meeting many countries agreed with Hungary.
(63) Detention of asylum seekers and migrants	In line with the Asylum Procedures Directive, Hungary may require from applicants that their applications be submitted in transit zones.
(65) The situation of unaccompanied minors	Under the Child Protection Act, unaccompanied minors are provided with full home care in accordance with the UN Convention on the Rights of the Child. Given that minors between 14 and 18 years have legal

	capacity in the asylum procedure, they can exercise their rights and shall fulfill their obligations. Besides separated placement, the safety of children is also secured by the 24/7 presence of a social worker in the separate accommodation facilities for families and unaccompanied minors, as well as clothing, healthcare and education.
(70) Detention of asylum applicants	Staying in the transit zone is based on the own decision of the entering person. The only restriction in this regard is that they cannot enter the territory of Hungary and thus the Schengen zone, until their request has been judged in their favour.
(72) Non-compliance with the European Social Charter	There is a wide range of guarantees providing safety, special rights and social security for those in need. These are further supported by the Government's employment and social policy. Hungary is committed to developing social standards to increase the well-being of its people. The success of this policy is confirmed by the fact that Hungary has performed at or above the level of EU-average in 8 out of the 12 indicators of the Social Scoreboard, published by European Commission.
(74) Rights of Children	Under Act XXXI of 1997 the child can only be separated from the parents or other relatives only for his/her own sake, in cases mentioned in the law, but not solely based on financial reasons, that would be a violation of the law. Removing a child from their family is the ultimate tool of protection. On the other hand, it must be stated that material causes are inseparable from some of the cases, e.g. malnutrition, bad hygiene.
(75) Adequacy and coverage of social assistance and unemployment	Since 2010 several measures have been taken to reduce the number of people living at the risk of poverty and social exclusion. As a result, the proportion of people living at the risk of poverty and social exclusion has decreased by 9.2% and in the case of children the number has decreased from 43.9 % in 2013 to 31.6 % in 2017.