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The Conscience of a Liberal

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Hungary's Free Media

Another post from my colleague Kim Lane Scheppelle, after the jump.

Hungary's Free Media

Kim Lane Scheppelle

March 14, 2012

On March 15, Hungarians are celebrating a major national holiday, commemorating the 1848 revolution that sought independence from the Habsburg Empire. On that day, revolutionaries famously printed their “Twelve Points” on the printing presses of Landerer and Heckenast in Pest and distributed them around the city. The first demand among the twelve? Freedom of the press and an end to censorship!

On Hungarian Free Press Day, then, it is appropriate to ask: Is there media freedom today in Hungary?

The Fidesz government says yes. Come to Hungary and see, Prime Minister Viktor Orbán [told the European Parliament in January](#). .

But critics say no. A recent Washington Post op-ed piece by Mark Palmer, Miklós Haraszti and Charles Gati even called for the recreation of Radio Free Europe to [beam accurate news into Hungary again](#).

The Prime Minister is right – on the surface. Foreigners who come to Budapest cannot help but be impressed when they review the media landscape. For a small country with a small language, the sheer volume of Hungarian press offerings can make one's head spin.

Newspapers and magazines span the political spectrum. The largest circulation newspaper, the Népszabadság (literally, People's Freedom), is routinely critical of the government. The HvG (which stands for Heti Világgazdaság, or Weekly World Economy) also publishes accurate news that the government does not like. Many Hungarians get their news from two online news portals: Index.hu and Origo.hu, without any obvious government “spin.” And there are too many more to list.

Government-supportive publications, of course, are everywhere too: the Magyar Nemzet (Hungarian Nation) and the Magyar Hírlap (Hungarian News) cap a roster that could go on for pages.

When I was in Budapest recently, I was mobbed by journalists, even though it is fair to say I have not been the government's favorite person. A wall of cameras greeted me at my announced public appearances; interviews with me appeared in [many Hungarian newspapers and magazines](#) . I couldn't even begin to say yes to all of the interview requests I got while I was in Budapest.

If the media weren't free, how could that be possible? The media sure look free. And many act free.

Media freedom is real because the press has continued to publish hard-hitting reports, documenting the Fidesz consolidation of power. If people want to know what is happening in Hungary, they can find out from the Hungarian media.

But press freedom is also an illusion. Journalists who refuse to repeat the party line are operating under both legal and financial threat. They publish in an environment of insecurity and fear.

The broadcast media consist almost entirely of government-friendly outlets. A privately funded pro-Fidesz television empire (like Fox News in the US) was supplemented by Fidesz control of the public channels after they took office. The only broadcasters not in the government's pocket are ATV, a surprisingly liberal television network owned by Pat Robertson and his 700 Club, and KlubRádió, an independent station that has been in constant danger of being [pushed off the air](#) by battles over its broadcast frequency.

Just today, however, KlubRádió won the latest round of a court battle to keep its current frequency. In December, another media company, completely new to the scene with owners no one in the Hungarian media world knew, had won a government tender for the frequency by outbidding KlubRádió. Now, an [administrative law judge has ruled](#) that the winners of that tender should be disqualified for having technical violations in their application. That gives KlubRádió, which came in second, the frequency. So Klubrádió may live to broadcast another day. They still have serious financial troubles and have been [seeking donations to stay on the air](#).

Outside the broadcast spectrum, one can find real media pluralism that does not appear to be under constant challenge. But even the largest print and online news outlets have smaller audiences than those claimed by the broadcast media. Hungary has a media landscape similar to Russia's, where the government also says the press is free by pointing to the publications that criticize the government (on tiny budgets with limited circulation) while the government exercises almost total control over the media that reach the most people.

The government of Viktor Orbán wasted no time when it came to power in spring 2010 in attempting to gain control over the media. The Fidesz government rewrote the media laws and has come in for [sustained and widespread criticism](#) ever since both from inside the country and from foreign critics.

The new media laws create an all-powerful Media Council, which has no members on its board who might be considered friendly to the independent press. The chair was named by the Prime Minister and its members have been elected by the reliable two-thirds supermajority of the Fidesz-dominated Parliament – all for nine-year terms. Even if another party can come to power after the next election (scheduled for 2014), a new government will still have to govern with the Fidesz-only Media Council.

The Media Council exercises far-reaching supervision over the whole media sector. Its jurisdiction reaches broadcast and print, public and private, even online media. It controls the assignment of all frequencies, monitors content across the media landscape and wields the power to levy large fines for violations of the rules. It dictates that news media must carry the news distributed by the state-controlled news service MTI, which only gingerly reports criticism of the government.

The Media Council regulates media content through vague standards. In particular, each media outlet must demonstrate overall political “balance” in its coverage of the news. And balance is determined by a Media Council that is not itself politically balanced.

In addition, the media may not infringe the human dignity of those whom they cover, and also may not “incite hatred [against any nation, community, national, ethnic, linguistic or other minority or any majority](#) as well as any church or religious group.” Asking the media to respect vulnerable minorities is not unusual in Europe, but protecting majorities? That is novel.

Morals regulations are also included in the [list of media restrictions](#). The media may not broadcast sex or violence, or programs that put young viewers in fear, except under restricted circumstances. In particular, “programs which may seriously impair the physical, mental or moral development of minors” may never be aired. Media outlets also “shall act as required by good faith and fairness.”

Hungary is alone among European countries in requiring the media to adhere, under pain of penalty from a partisan media regulator, to the values of balance, human dignity, good faith and fairness. Of course, all of those values are admirable. But they are also general enough to leave substantial

room for interpretation, and the interpretation of these vague standards is in the hands of the Fidesz-only Media Council. If a media organization violates the rules, it may be fined up to about \$100,000 USD per violation. And these fines cannot be challenged in any ordinary court.

That said, a decision of the Constitutional Court in December 2011 declared unconstitutional the content restrictions as they apply to the print media, saying that they constituted an undue limitation on freedom of the press. But the Court declared the law unconstitutional only “prospectively,” which means that this unconstitutional legal framework can stay in force through May 2012 to give the government a chance to revise it.

Since then, the Media Council has devolved some of its powers to self-regulating bodies within the printed press, online media and advertising industry. But the Media Council reserves the right to revoke that devolution and take back the power with only 30 days’ notice to those whom they regulate.

This devolution, while welcome, is not a long-term answer to what the government will do to comply with the Constitutional Court decision once the law under which this devolution occurs goes out of force in May. Unfortunately, however, the Constitutional Court lost its powers to review laws in this way when the new constitution came into effect on January 1. As a result, if the Parliament simply reenacts the same law empowering the Media Council again and devolving power in this precarious way (or even keeping all of the power for itself), the Constitutional Court could not easily declare the law unconstitutional again.

Important as the media laws are, however, they are only part of the story. Perhaps even more important to the survival of the independent media are the financial pressures under which they operate, where they are encouraged by the government to be free (in a different way).

Free (in English) carries a double meaning. “Free” can mean without restriction and it can also mean without cash. The Hungarian media may not be fully free in what they can publish, but they are expected to operate free of cash.

Most Hungarian independent media are barely able to survive financially. Their precarious economic condition has been brought about not by free markets, however, but by political pressures.

After the 2010 election, a sudden drop in advertising revenue hit the independent media. Why would a change of government affect advertising?

In most western democracies, changes of government have no such influence, but in Hungary, the effects were major.

First, the biggest media advertiser, across the board, is the government itself. From promoting tourism to public transportation to national theater productions to the national lottery, the Hungarian government has long supported both print and broadcast as well as both public and private media. Since the transition from communism, the robust media scene has been operating with what is in effect a large state subsidy. Press freedom in most democratic countries doesn't usually rely so heavily on government advertising support but, in Hungary, state funding of the private media through advertising had gone without saying for 20 years.

If the government wanted to wean the press from public support generally, that might have been understandable in these tough budget times. But the Fidesz government withdrew government advertising only from the media that are critical of the government. It is still giving large amounts of advertising revenue to the Fidesz-friendly media. Moreover, privatized businesses run by close associates of the government, like the Hungarian bank OTP and the oil company MOL, have also cut their substantial advertising in the independent media.

The independent media might have been able to survive the public cuts. But private money going to the independent media dried up too. In my recent trip to Budapest, I talked with many business leaders and journalists who said the same thing: no private business that advertises in the independent media can expect to receive government contracts.

Where nearly 2% of GDP comes from EU "cohesion funds" (administered locally through Hungarian government contracts) and where other government funds constitute a big chunk of the economy beyond that, it is nearly impossible for private businesses to say that they will forego government contracts. So they stop advertising in unapproved media or risk being blacklisted.

How does the government communicate where it is permissible for advertisers to advertise? Everyone knows the "Lucky Joker" rule.

The sign of the Hungarian lottery

The Lucky Joker is one of the lottery games run by the state. And the Lucky Joker rule says that private businesses are safe if they advertise where the lottery advertises. Lottery advertising used to be everywhere. But now, lottery advertising is limited to the Fidesz-friendly media. If businesses

advertise in media outlets that do not carry lottery advertising, they do so at their peril.

When I was in Budapest, I thought I would ask the government about the rule. In an interview on February 1 with Zoltán Kovács, PhD, State Secretary for Government Communications, he did not challenge my description of the way that the Lucky Joker rule operates even though he challenged virtually everything else I said. That's not a confirmation. But it is also not a denial.

Publicly, of course, the government says that it wants the media to be free. But the independent media are encouraged to be free in the sense of operating without income rather than in the sense of operating without constraint. And that is precisely why the government doesn't need to openly shut down the independent media or engage in ham-handed tactics of overt censorship. The Media Council's threats have been largely unrealized in practice.

In fact, the government can even point to the existence of these financially teetering independent media enterprises as proof that the market for independent media is small. And Fidesz can say that it is ridding Hungary of the last vestiges of communism by removing advertising subsidies to private media outlets. Meanwhile, behind the scenes, the government can make the Lucky Joker rule widely known, so that advertising revenue for the independent media disappears. When these media outlets eventually go bankrupt, the government will blame free markets.

So far, European criticism of the Hungarian government's media policy has focused on the media laws. But even if European pressures force the government to change these laws, the Hungarian government will still have a joker up its sleeve.

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