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MODERATOR: Well good afternoon and welcome to this program, *Hungarian Media and Archives Policies Today: Big Controversies in a Small Country*. This program is co-sponsored by the Institute for Hungarian Studies at Rutgers and SAPAC, the Scholarly and Professional Activities Committee of the Rutgers University Libraries. The apropos for this talk is the new Hungarian government of Fidesz Party and the Christian Democrats Coalition, which won a large majority -- a two-thirds majority -- of the Hungarian Parliament in the elections in 2010. And since it won the elections in April 2010, the government has been using its super-majority to enact amendments and legislation -- amendments to the constitution and legislation -- which is the source of some controversy, particularly with regard to the media law for mass media and a proposal to provide the possibility of eliminating police surveillance documents from the archives. In fact, the constitution, the new constitution that was promised after the election was passed by the Hungarian Parliament this Monday and will become law if it is signed by the President of the Republic next Monday. Before I turn the program over to our speakers, I want to give you three issues which, at the risk of gross overgeneralization, are what you really need to know about Hungary if you're new to Hungarian history. The first fact is the Treaty of Trianon after World War I, which reduced the territory and the population of Hungary by roughly two-thirds. And that is a major turning point in Hungarian history, something that Hungarians feel very strongly about, and in-effect protest against the Treaty of Trianon as a marker of Hungarian patriotism. But when you protest, you run the strong risk of alienating the neighbors of Hungary so, it's an inflammatory issue in the perspective of those neighbors. Second main point is that Hungary was under Communist rule between 1946 and 1990. That Communist rule was harshest in the 1950s before and after the revolution of 1956. So-called "goulash Communism" from the mid-1960s onward was more mild, but that Communist legacy is very

divisive in Hungarian society today. Particularly because many people, in order to make their careers in Communist Hungary, made compromises which they may need to answer for today or that provide them with a...make them a target for accusations about those compromises that they made in their past. The third major issue in Hungarian public discourse is a dichotomy between two groups of intellectuals called the Urbanists and the Populists. Basically, since the early 20th century, Urbanists have been people who envisioned a democratic Hungary as being part of Europe and since the fall of Communism have been very strong advocates for integration of Europe with the European Union; and in the year 2003, Hungary became part of the European Union. Versus the Populists who emphasize the traditional values associated with the Hungarian countryside and also solidarity with Hungarians living outside of the current territory of Hungary, especially in neighboring countries. Fidesz and Viktor Orban have chosen public positions that are consistent with the Populist position, including a strident rejection of the Communist legacy and rhetorical opposition to the Treaty of Trianon. Our speakers today will be two main speakers and three respondents. I'll tell you a little bit about them and then invite them to speak in succession. Tibor Purger is currently employed in Rutgers University Libraries as Director of the Integrated Information Systems. Previously he worked in information technology for the Brookings Institution for 16 years. He has been a journalist also and he worked as a correspondent for the Hungarian Daily Magyar For (sp) in the Serbian province of Vojvodina. He's also worked for Radio Free Europe, for

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Duna TV which is a TV station, a TV network in Hungary. Those of you who attended the New Faculty Book Exhibition downstairs may have noticed that Tibor has a Hungarian edition of his collected columns about American foreign policy since the turn of the millennium that was recently published. Christopher Adam is a lecturer in History at Carleton University in Ottawa, Canada. He's taught many courses in 20th century European history. His research has been in the field of Canadian-Hungarians including an edited volume, *The 1956 Hungarian Revolution - Hungarian and Canadian Perspectives*. He's done research about the internship, the interning of Hungarians in Canada. He's published articles in various journals, particularly having to do with Hungarian State Security

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agents in the immigrant community of Canada. And as I'm sure he'll share with you, he was a leading person in the international petition campaign about the archives initiative that he'll be talking to us about. They'll each speak for about 20 minutes and then we'll have three respondents who will speak about 10 minutes each. The first of these is John Pavlik, who is the professor and chair of the Department of Journalism and Media Studies in SCI next door. He has published a book co-authored with Shawn McIntosh, *Converging Media*. He has written widely on the impact of new technology on journalism, media and society.

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Atilla Pok is Deputy Director of the Institute of History of the Academy of Sciences in Hungary, General Secretary of the Hungarian Historical Society. His books include a bibliography of history on modern Hungary and a study on historical philosophy of the Hungarian Left, the Urbanists in the early 20th century. His recent research focuses on scapegoating in Hungarian history and politics and he's currently teaching at Columbia University. And finally, our third respondent is Professor Dan Kelemen who is the director of the Center for European studies and teaches in the Poli-Sci department, where he is the holder of the Jean Monnet Chair and he's a specialist in the European Union. His publications include, *The Rules of Federalism: Institutions and Regulatory Politics in the EU and Beyond*; and a new book, *Eurolegalism: The Transformation of Law and Politics in the European Union*. So, please welcome our speakers and we'll have question and answer after the panel discussion at the end of the five presentations.

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Thank you. JOHN PAVLIK: Thank you Jim.

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Good afternoon. Let me start this PowerPoint first. And it also needs to go to the beginning. And I need a pair of glasses. I hope to paint a picture here.

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About something that is probably unusual to talk about in a country far away from where the things are happening or have been happening. And I hope that the colorful intro slide would show how I am trying to go about doing this. It's going to be rather, I hope, an impressionistic tale or story of what has happened around media law rather than a theoretic approach or a systematization of what and how and why. If you are not a specialist, and I'm at some disadvantage here because most of you are, you usually hear about these things from the press as vignettes here and there. But to see the whole process is a little bit more difficult and of course, the first question is why are we talking about the Hungarian media law at all? It is a small country of 10 million people. Faraway. It is a NATO ally. A member of the European Union. A stable democracy [and] has been for 20 years. Why is it important that suddenly there was some disconnect on the political scene of the country about its media law? As I said, an impressionistic view, you will see some fairly strong words as have been uttered or printed in Hungary itself on the screen. I tried to quote them when they are the strongest and sometimes tried to show them in in various formats so that...to convey them as not necessarily my opinion, but rather what has been happening over there. The story did not start on December 21 last year, but the culmination of it did start on that day. And because I think the question of why we are talking about this at all is so important, I tried to devote some time to the "why" and then going into some of the issues of the media law itself. I am not going to read that, but this is from the preamble of that media law that was passed on December 21. And of course, the "goulash" paragraph, herding over as good shepherd over all the media under the blue skies and the green pastures.

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The next day, a newspaper not far from Budapest, the *Gazeta Wyborcza*, Adam Michnik's newspaper who -- is known as a fierce anti-Communist -- ran a front-page title saying "**We Express Solidarity With the Hungarian Press That Prime Minister Orban Wants to Muzzle**". Strong words right there and probably over-exaggerated words. But then again, three of the leading conservative German newspapers published on the same day alarming reports from Hungary with strong headlines. And even officials Berlin, Paris and in Luxembourg spoke out. The next week or so passed by in fairly upset silence in Budapest and an uproar in the global press. I haven't really run any statistics, but I could easily imagine that ever since 1956, there has not been as much written about Hungary as there was during that week in the global press. And truly from Seattle to Sydney or really *The Seattle Times* and *The Australian* in Sydney, they echoed those questions and the doubts and expressed criticism sometimes in ways that they must have at least personally not verified. But even a wary German Chancellor, who is a good ally of Hungary, and Hungary a good ally of hers, expressed criticism that *The New York Times* ran and let's read that. Although this was spoken by her spokesperson, not by herself, but on her behalf. "As a country that is about to take over the Presidency of the European Union, Hungary will have a particular responsibility for the image of the whole Union." And then, of course, Mr. Orban responded in a television interview in Budapest, "We are not even thinking in our wildest dreams about making amendments to the law. I'm not inclined to react with wobbly knees to debates in Parliament or Western reactions." I would posit that both of those utterances were fairly justified. I doubt that the German Chancellor asks her spokesperson to say anything like that if she is not acquainted with the situation and it's understandable that the Hungarian Prime Minister didn't like that.

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Something else happened inside Hungary and the question is those protests on the streets of Budapest or on Facebook, within several days over 80,000 people signed up on the Facebook page that was called One Million for Hungarian Press Freedom. That's about 20,000 more than the Prime Minister has fans or had fans at that time. So, were these protests in response to the global press or vice versa? Probably not in response to what the global press said, because most people don't read newspapers from abroad,

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even in today's Internet age. These are just a few images that probably do not express what the average Hungarian thinks about those issues, but they were quite visible on the streets of Budapest. So, there came New Year's Day and Hungary assumed the rotating Presidency of the Council of the European Union. This is the, for those who don't necessarily follow the EU, there [sic] is a lot of interesting names of bodies and sometimes even misnomers. This is the body that comprises of the ministers depending on the issue being debated. So, Hungary took over the rotating Presidency for the next six months and EU leaders gathered in Budapest and this is of course Van Rompuy and Prime Minister Orbán. The so-called left liberal press in Hungary ran alarming or alarmist front pages. Seven or eight of those newspapers came out with blank pages. Some others with declarations in the EU languages that the freedom of the press in Hungary is dead or even an old 1919 graphic on the title page of Nape Ca Va (sp). So again, what's going on? In those first, let's say two weeks, the Hungarian government, other than the main spokesperson rejecting all that criticism and the right-leaning Hungarian press calling it treason by friends of foreign friends of the left inside of Hungary and all those scary names, we really didn't hear much from the Hungarian government itself. And after that I think it became clear to them as well that this situation could have been, should have been handled in a way

that could have predicted what was going to happen because all those all that criticism did not start on December 22nd. It started back in late June and July as we will later see. So, comes January 19, when the plenary session of the European Parliament took up the program for the rotating Presidency and of course, saw in that same debate, talked about the media law as well. That's a group of representatives in the European Parliament who, in protest, [sic] hold up mocked-up front pages of Hungarian newspapers. Some in Hungary criticized them because at least some of those papers are from the press

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that is usually looking favorably on the government and so why would those be censored. But of course, it was a symbolic thing. There was a strangely sharp debate that some of those who follow the EU Parliament sessions say is not usually heard in those chambers between some of those members of Parliament and in Prime Minister Orbán, whose program was, by the way, unanimously supported for the rotating Presidency. But the media law that had just passed was harshly criticized. One of the well-known names in the Parliament of course, Daniel Cohn-Bendit, praised Orbán in a fairly emotional speech for his past role and then in, the same breath criticized him sharply for not understanding quote unquote how democracy works. The Hungarian Prime Minister rejected all that criticism and even called it an insult to his nation and to his government and once back in Budapest, his press and his allies declared that they had protected the nation and the country from the mad attacks and in Strasbourg.

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It looked like there were voices for “can Hungary even assume the rotating Presidency with all those things going on?” That was of course the emotional tenor of the speeches and of the press, but nothing like that was going to happen. The Hungarian government, after consultations with its allies in Brussels and in the European People's Party, changed its stance and from the original statement that we had seen from the Prime Minister's interview that they would never, ever change the law just because somebody didn't like it in the West. They decided what some believe, based on the good advice from Barroso and Van Rompuy,

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that if the appropriate body or the appropriate voice from the EU comes out with technical modifications that, the law should undergo in order to be in conformity with the fundamental rights in the European Union, then that could be done. And so, it came to pass [that] Neelie Kroes, The EU Commissioner for the Digital Agenda, after careful analysis as they say, came up with four items that were recommended to the Hungarian government to change into law. We'll see those in a bit. So, what I have described so far, I think is a lot less and a lot lower-key than what was going on in the press including *The New York Times* and *The Washington Post*, *The L.A. Times* and other American newspapers. But still I hope, and you must have experienced it that there was some excitement. So why was all this so exciting and why did so many people care? It is almost unbelievable that this kind of uproar and in so many countries around the globe could have been caused by several leftist liberals, independent or ex-Communist thinkers in Hungary who would have tried to mobilize their friends abroad to undermine their own democracy in Hungary. So, let me give a brief historic background to try to understand better why this is happening in the Hungarian media.

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There are two columns here. The first one talks about the so-called first media war that the Hungarian media theoreticians called Media Wars. The first one went on between 1990 and 1994 approximately. And the second one between 1998 and 2002. If you want to -- and I believe you did not pay attention or most of you did not pay attention back in those years --but if you want to

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have a mental image of again the tenor and the level of the debate and the voices that were flying back and forth, sometimes more than just voices, think about let's say Fox News and MSNBC. That's how strong and harsh this debate became in Hungary. So how did it all start? Well, in the last several years of the ex- Socialist regime, several -- or we should say even we could say many --

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journalists in Hungary played an important role in trying to dismantle the regime, dismantle the old restraints that that Socialism imposed on the press. So, when the changes came about: the change in the political system; the change of the regime, they assumed that finally they were totally free to express any criticism of the government of the entire political scene. And they started to do so. In an agreement or based on an agreement between the Reformed Communists and the Opposition Roundtable that came, that brought the changes about, it was decided that the public service media -- and back in those years there was no commercial electronic media to speak of in Hungary -- so in the public service media, the media outlets should be led by independent thinkers who are in esteem by everyone across the political

spectrum. And so, it was indeed both the Hungarian television, MTV, you will see that abbreviation later, and Hungarian Radio, MR, were led by famous media theoreticians. They had been professors in the United States and in Europe. They knew what they were doing. They were not affiliated with any of the parties at the time.

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Their sin though was, or failure to recognize that the independence of the media, and we are still talking about public service media only, was not to be absolute. They just took it totally seriously I thought. I think the right-wing of the center-right ruling party, the Hungarian Democratic Forum, did not like that situation at all and especially one

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Vice President of the Democratic Forum, [inaudible], whose name would be later would become more famous or infamous. He thought that all

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tools should be for the government to use in order to make the public service media serve the purpose of the state. And there was a whole bunch of discussion about this. He came out with very strong words that even the police could be used to rein in the journalists who are just out of control. Prime Minister Antall did not necessarily think so. He was a true Democrat, but his right-wing was obviously pushing him in that direction. And to make that long story short, those four years short, the first media war broke out when the government tried to impose more control on these independent names that were leading Hungarian television and Hungarian

radio. These were the only sources. Remember the Hungarian population in the early 90s did not speak foreign languages in large numbers. And even though at that time they could already follow German and other television, they did not speak the language. So Hungarian television and radio were really the only, if not the best sources, for their information. The government even came into conflict with the President of the Republic, Arpad Goncz, who did not want to force out these two leaders in the public service media, but in the end that also came to be. Of course, in 1994, all the Socialists, the ex-Communist party came back to power. They had an even larger majority, supermajority, in Parliament than Fidesz does now. Over 70 percent as opposed to 67-something [percent] right now. They passed a new media law. They introduced commercial electronic media and the landscape changed totally. There were some major changes in the media houses as well so after the pushing out of the liberal independent media leaders, suddenly those who replaced them were replaced as well. The second media war broke out approximately after the first Orban government came to power and tried to assert their plan that called for balance in the media. And that balance of course meant balancing back that under the Socialist era was mostly leaning to the left. They were very successful in that they consolidated the right-wing press with all kinds of buy-outs and buy-ins and repurchases. They took over the public service media obviously and they used the tools that the previous Socialist majority put into place, which was a parity representation in the oversight bodies of the public service media. So, on average, the media balance tilted to the right at this point. When Prime Minister Orban lost his reelection bid in 2002, the subsequent period could be called nothing but deadlock in both Parliament and in the media. Once out of power, Fidesz moved most of its politics to the street. They declared that the Fatherland or the nation could not be in opposition, therefore they were not in opposition in their views. And an era of referendum politics, at least on the big issues or what was thought to be big issues, ensued. Some serious Socialist fear-mongering prevented the law on granting citizenship to ethnic Hungarians over the borders and almost in retaliation, the right came back and blocked some financial and social reforms that the Socialist government wanted to put in place, namely in healthcare reform and

higher education. These were mostly financial issues. The referendum stopped all of those. Public service media got out of hand. Because of the parity oversight, it became impossible to elect leaders into the public service media, which by that time was losing on viewership, losing on market share big time. Interestingly the Socialists left in place a fairly right-leaning leadership in Duna Television which was really meant by constitutional provision to inform Hungarians across the borders and that's why it's a global network. For full disclosure, I have worked for Duna Television. And of course, then 2006 came with the infamous closed-quarters speech by then Prime Minister Gyurcsany, the Oszod Speech, which was then leaked right in time to uproot the planned celebrations in October 2006. It ended up in a mob attacking the headquarters of Hungarian television. Quite unsightly, and of course saw some police brutality that ensued. The Socialist government tried to reform the media law again because by that time it had become obvious to everybody that it was not serving its purpose. But it was impossible because Fidesz was gaining big time in the polls. It became clear that they would win the elections in 2010. So, they were disinclined to agree to any changes at that point. Interestingly enough, the caretaker leadership of Hungarian public television, MTV Channel One and Channel Two, switched sides several months just before the elections and so they did play a role in Fidesz's victory. And we're coming to on how this whole upheaval started around the media law.

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There was a legislative tsunami although this word is not really popular anymore after what happened in Sri Lanka and Japan of course, but it was clearly shown what the two-thirds majority can do in Parliament if it represents an activist government, and activist it really is. It is reconstructing the country as it sees fit and as it feels empowered by the 53 percent vote it got in in the popular election in the first round and the 67 percent majority that because of the political system it ensured in Parliament. It started out with granting citizenship for over-the-border Hungarians without the need to settle in Hungary itself.

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That was an old promise and promise kept. Many people were happy about that. Not necessarily some of the neighboring countries mainly Slovakia. Or mostly only Slovakia. A Day of Remembrance, Jim talked about Trianon. A Day of Remembrance was enshrined in law. It was just so that the 19th anniversary of Trianon was a few weeks after the new government came to power and a system of national collaboration, depicted in that poster, that was to be posted in every public building and every public institution was declared. The rest is fairly known around the globe again in the global press, a crisis tax in three sectors were imposed on the energy sector, telecommunications and retail. A windfall bank tax, 98 percent retroactive tax on so-called silver parachutes and that was made basically hitting people who had been forced out because of the change of government. Constitutional Court declared that unconstitutional. In response to that, the Constitutional Court's powers were curbed by a constitutional amendment. Private pension funds were nationalized to beef-up the state budget and then all of that in seven months, 10 constitutional amendments were passed. Part of all that tsunami was the media legislation reform that took place between June and December of last year in four fairly large phases. In Step One, they amended the constitution, expanded legislation so as

to include online media and established an independent state agency to control all the public service media and some aspects of commercial media and press. In Step Two they completely reorganized the public service media into a highly complex, [sic] organizationized state control. I will have a slide about that. In Step Three they passed a new media constitution that strikes the foundations of what journalists and the media must and must not do. The rights of the public as, opposed to or against the media. And finally, Step Four introduced a bill in November and passed on that early in those early wee hours of December 21st, the new media law was passed. It codified everything. It expanded the jurisdiction over the media and according to some analysis, it cemented control over the public service media, introduced nine-year terms for those who were going to be in in control. Interestingly and that's an interesting aspect of this media legislation, all of this was done so as to somehow avoid formal public and professional debate. If the government introduces a bill, a certain type of bill, it has to go through a formal debate. These bills were introduced by individual members of Parliament from Fidesz and therefore no such debate was required by law.

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Pay good attention to this, there will be a quiz afterwards. So, this is the complex mesh of the new media authority. It would take another 20 minutes to describe this so I'm not going to do so. But just a few notes on why this is very interesting. At the top sits a single person appointed by the Prime Minister, who is not responsible to Parliament only to law, and who appoints a whole lot of directors: general directors; sub-directors; over-directors; super-directors, and controls much of what happens in what's called the National Media and Communications Authority. That authority, basically run by this one person, the President, has very firm control over frequencies, over competition in the media, over ethical questions in the media through its media council.

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The council itself is also being presided over by the same person and the members of the council are elected by Parliament, a two-thirds majority on a single list. So obviously the opposition cannot really do much. And in that respect, the other two are also interesting new organizations. The long name of Media Service Support and Asset Management Fund became a single-owner closed company

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which employs, starting January 1st, all 3,000 or almost all 3,000 media workers in the public media sector. The Public Service Foundation, on the other side of the pyramid, is the owner of the media outlets themselves. So, what's happening here? The Hungarian News Agency MTI or Magyar Távírási Iroda, the Hungarian Public Service Television MTV, Duna Television -- we talked about that already -- and the last thing, Hungarian Radio, were retained as the three of those -- and I'll say a few words about MTI in a moment -- were kept as ordering authorities with 49 individuals employed by each. Over 50, you have to allow employers to elect their own employee councils and have some say in running the enterprise. Under 50, you don't have to. And the Hungarian News Agency became the sole news operator in the public service media. It's then the news agency that can send crews to events, that can attend press conferences, bring back all the material and then distributes it to all the public service media and makes it available, for free, to all commercial media. That has some competition consequences, I believe, as well. And at the bottom --oh, and everybody else who had worked for those four media outlets were sent over to this mega-production house called the Media Service Support and Asset Management Fund. This organization is still under way. A lot of people don't know where they sit and who their bosses are. I hear that firsthand. At the bottom, the big white Public Service Board is a 14-member body that makes sure that the code of ethics in the media

is adhered to. Its composition is also interesting, but we don't have time to go into that. So, we have heard many of the objections, some of them clearly subjective. Some of them might be objective. In black letters I'm quoting some that are really harsh. "Freedom of the Press died in Hungary. Censorship has been revisited upon us." I don't necessarily think those are correct judgments. But clearly, they express the feelings of some who work in the media. But the law itself, without doubt, contains vague definitions of what's what. It's set up a bureaucratic system as we have seen. It imposed political control -- complete political control -- over the public service media. That is already clear. And it seems to be cementing that control and power through a nine-year term of those who are in leadership positions. In those pyramid segments that we talked [about]. What I call by extra judiciary process is that the Media Council and its various bodies can conduct investigations, can subpoena media houses, can ask for all kinds of things, and it is hard for journalists to shield their sources. The fines that are impossible are extremely high. The government says they will be used judiciously. They also say that the law in itself is neither good or bad but, thinking makes it so. It's a big question if that's an objective criteria in itself or not. There are four items on the right that the next slide also talks about. Those four fairly objective objections were brought up in the report from the EU Commissioner and promptly fixed by amendments to the media law by Hungarian government and Parliament. They lifted the balanced coverage requirement on the printed and the online media. That was one of the huge points of contention. The country of origin principle in the Union states that you can only fine those subjects that are headquartered in your country. The media law originally did not comply with that. Now it does. But still leaves the leeway of well if they evade settling in Hungary just so that they can avoid Hungarian law then they can still be subject to those proceedings. The vague definition of defamation was lifted or dropped and the registration required to conduct news operations anywhere: printed, broadcast, or online was modified so as not to be a precondition, but rather a requirement for formal registration purposes. So, what's the epilogue for now? Of course, obviously the media law has been amended in good ways. It now complies as the EU Commissioner confirms with the

fundamental rights in the Union as relevant to the topic. The public service media is being reorganized. It is also being reined in. That is my opinion. To some extent it is visible. On some things that political control has been cemented or is being cemented for years. The first moral cases against, for example, a radio station that broadcast an American rapper song was dropped even though the moral issues were those that were referred to as the need and the basis for some of the harsh fines and some of the harsher requirements in the law. But the printed press, the commercial printed press, is really awaiting July 1st, because some of the tools in the media law will not be usable by the Media Council until July 1st. Oddly enough, that date of course is the same as the end of the Presidency rotation for Hungary. The street protests continue. The last one was March 15, on the National Day. The Constitutional Court will have to take up a review by more than a dozen appeals against the media law. We heard from Jim, the new constitution passed on April 18, with ruling party votes only. And of course, the media is still free in Hungary. Nobody can deny that. Many dissenting voices in the informal constitutional debate. There was no formal debate socially except for a questionnaire sent out to eight million homes. Many dissenting views were freely, openly heard and freely, openly ignored. There is an old wisdom and there is a new wisdom of the electronic age. Many people back in Central Europe say even today that the freedom of the press belongs to those who own one. Better to own more. That might be through. The cartoon on the left is actually coming from a right-leaning Hungarian newspaper that tries to depict those who protested the media law in the European Parliament as playing demagoguery basically. Protesting and not only but really being supported by those perhaps multinational corporations who were imposed the crisis tax and the windfall bank tax. And of course, the new wisdom, as we heard in this room, as well and around the globe, might be that you can do anything if you organize well maybe on Facebook. Thank you very much.

MODERATOR: Thank you, Tibor. We're moving right along and I'd like to ask Christopher Adam to talk to us about the archival resolution and proposed legislation. And if you could keep to 20 minutes so that we can have time for the respondents also and discussion with the audience.

Thank you.

CHRISTOPHER ADAM: OK, so you're probably wondering why I got involved in the debate concerning State Security Archives. Well I'm a historian at Carleton University. I teach and a few years ago I had an opportunity to visit the State Security Archives in Budapest and look into some of the documents that they had on Canada. And what I found is that this served as quite a wealth of knowledge. A really wonderful source on the Canadian community. How Hungary, how State Security agents saw Hungarians in Canada and also information on conflicts within that community itself. Now when the resolution 1283 was first announced -- and that's the resolution that tries to basically limit access to State Security documents, allow further scattering and indirectly allow for their destruction -- when this was announced in December, it really stunned me quite a bit and I sort of showed the copy to several people in my department and friends. And most of them could barely believe that in fact this could be taking place. But I had an opportunity the next day to bring this up with a diplomat, a Hungarian diplomat, and then sort of discuss this issue and compare it to that of the media law and one thing that he noted is that while the media law did certainly reverberate and caused major controversy and waves; a law concerning archives is ultimately an abstract issue. It's an esoteric issue that might interest a small handful of overzealous historians and archivists who sit all day in dusty offices, but it's not really going to interest the general population. And when I heard that, the thing that came to mind is a quote from a Canadian archivist who noted that, "archives ultimately serve as a train connecting the past and the present." And a Hungarian-Canadian historian later noted that the one thing we should not do as a society is hinder the free passage of that train in any way. Now ultimately, the history of Secret Police in Eastern Europe is a haunting and a troubling history. There's no question about it and frankly no country in Eastern Europe found an absolutely foolproof way of ensuring that the largest number of documents are available to

researchers. Most countries in the region had issues in terms of how to actually provide access to these documents and you could understand why. Imagine walking into one of these archives and discovering that your best friend, your neighbor, a family member, happened to be part of that apparatus. Perhaps someone you know and loved spied on you. There's even a film that came out about this, *Lives of Others*, some of you probably have seen it and that in some way touches upon the sensitive nature of this topic. The way however I would describe Hungary's handling of State Security files, not just today, but back in 1990, is haphazard. And not just haphazard, I would go one step further and I don't want to sound alarmist here, but I do think we can say that the Republic of Hungary in some ways behaved like a fly-by-night operation in 1990 in terms of how it dealt with these documents. And just to actually bolster that last point, which might seem a little extreme, I want to show you one document. Just as introduction, this is a document produced by a Hungarian bureaucrat. Someone who was the Deputy Director at the time of the State Security apparatus in April of 1999. This man happened to get a little bit sick one day and he decided to stay home from work. He basically called in sick and was gone for about four days. And within those four days bureaucrats from another department, from the Ministry of the Interior, came in and actually took, confiscated documents in his office without actually asking him. Disappeared with them and then several months later asked this man to ultimately sign the record and say that he obliges and agrees to what just transpired. So just to give you an idea of the nature of this document I'll just show it to you over here. If I can get this one coming up. Okay so it's obviously in Hungarian, but essentially this is something produced and it describes how on April the 6th of 1990, you have bureaucrats walking into an office which contains State Security files and using the opportunity that the person in charge of those files happened to be sick to take them away. Those documents were removed. They were brought over to a different ministry and ultimately the man in charge of this, who opposed this motion, never signed the release form. Now we don't know what happened to all of those documents. Some of them are actually, the fate of some of them probably, [is] that they actually ended up in public archives. In other cases, they've disappeared and one of the reasons

why they would have disappeared is because there was a fairly systematic destruction of documents taking place in Hungary. Not just in Hungary, but other countries as well in 1989 and even in early 1990. According to some historians that systematic destruction of documents might have actually continued in Hungary's case even up until potentially 1995. Now every single former Eastern bloc country ultimately dismantled its State Security apparatus; however, in each case, members of that State Security apparatus found a way or were given a way to return in a different capacity into the new sort of apparatus of that state. To give you an example --Romania. Romania has a notorious State Security, the Securitate, was basically transformed. Pretty much left largely intact and it became the Department of Information after April of 1990.

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Even in Czechoslovakia and Czechoslovakia was a little bit more forward-thinking in this in the sense that they were more careful not to, to ensure that some of the worst State Security agents couldn't make their way back into bureaucracy. Even in Czechoslovakia some of the agents became traffic cops, those who, in fact, had previously been Communist spies. So, we have this throughout the region and you certainly have it in Hungary as well. In fact, one thing that is fairly contemporary and a recent development is that in Hungary a number of agents' names recently were published on the Internet by actually a quite a high-profile Hungarian historian [unintelligible]. And right after those were published the Hungarian Ministry of Foreign Affairs was wondering then how to deal with some of the agents who are still working for the Information Department. Now the Information Department is an essentially civilian form of Intelligence. It is currently being monitored or being supervised by the Minister and what ended up happening is a man called [unintelligible] who serves as a parliamentary secretary associated with the Foreign Ministry sent out an internal memorandum in March of

2011, so just last month, essentially confirming that on the one hand we still have former agents working in the Department of Information. And two, that those agents need not fear that they will be removed because their work is appreciated by the government. So essentially what we see happening is even today former agents who had been working for State Security in a dictatorial regime are in some cases still working for the government. We don't know the exact percentage but it most likely is not insignificant especially if an internal memorandum is circulated at the beginning of March ensuring that no one needs to worry, their jobs are safe. Now,

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not surprisingly, the transition to democracy in '89 and 1990 was no easy game to play. And of course, the interests of higher-ranking agents often dictated what would actually take place.

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But what's important to keep in mind is all the political parties in Hungary, whether they're a left-wing or right-wing, had a stake in what files are released, when they are released and how they are released. OK? Including liberal politicians in Hungary associated with the Free Democrats. And one of the more interesting meetings that took place is one that occurred on July 19, 1990, and in this meeting the essentially the National Security Committee of Parliament tried to discuss what had occurred to a large number of documents in late 1989, early 1990 that had been destroyed. So, in other words, the Hungarian government or various functionaries in the government were destroying, in the last days of the old regime, quite significant State Security documents. Now that turned out to be quite a controversy, but a much bigger controversy in many ways was the fact that State Security in late 1988, '89 -- after they were no

longer permitted to do so -- spied and monitored on opposition politicians: conservatives, and liberals. And this controversy really blew up and became something known as Duna-gate. And of course, I don't have to tell an American audience the various references made over there obviously to Watergate. But Duna-gate was really a significant scandal and a committee was created to try to examine what had taken place. Why State Security had been allowed and why it had been able to continue spying on Democratic opposition politicians even after they were no longer permitted to do so. And in that meeting, some of the politicians representing the Free Democrats, a liberal party, essentially were concerned about how these documents would be released because some of them contained false information on the party literally days or weeks before an election. The first democratic election. Some of the documents contained true information, but information on the campaign tactics of the party. And you can imagine that if you're a leader of a political party you don't want people leaking left, right and center your campaign tactics weeks before an election, right? So, liberals and conservatives in many ways both sides were concerned about how these documents would be released -- were really worried about them. Curiously, it seems as though one man in particular, perhaps one man who didn't have a stake in all of this as much. A man called Miklos Nemeth, who is Hungary's well, essentially last reformist Communist Premier and who was a transitional leader. He was one of the ones that called quite loudly to release as much as possible of these State Security files. And of course, he didn't have the same sort of stake in this as many others did who were sitting around that same table now. Ultimately, as the years passed, Hungary did not find a really effective way to deal with these documents. The ABTL, which is essentially the archives in Budapest, Historical Archives of the Hungarian State Security is where you can go to today if you want to explore some of these documents. But not all of them are actually there. Many of the documents are still withheld by the various organs of Hungarian State Security and ultimately what ended up happening is some of those documents are still not declassified today. In terms of percentage as to how many are still held by various sort of successors of State Security, some historians place that percentage at roughly 30 percent of documents that

are still being withheld at this point. The question then becomes what do we do with the documents that are withheld and what do we do with those that are already available to historians and also to survivors? And ultimately, the current Hungarian government came up with a solution. A solution that I think most historians, if not all historians found deeply troubling, and this is resolution 1283 which calls upon the Ministry of Public Administration to essentially draft a piece of legislation by November of this year which will allow for a number of things. On the one hand, most importantly, it will allow for survivors of Communist State Security to walk into archives and remove documents that pertain to them. Remove their own personal files. Once those files, the originals are removed, they are permitted to go home and do as they please with them, which could involve potentially putting them up on a wall as in fact some politicians suggested. It could involve selling them perhaps. And it could also involve potentially destroying them. In other words, it becomes possible for people to walk into archives and essentially take apart a national collection of documents. And the reasoning is that these are the documents of an immoral regime and in fact they are immoral documents because people collected information on others through what we would today consider illegal and immoral means. The question for historians then becomes what document [inaudible] information and how do we define what is moral and what is immoral. If we use this [inaudible] in archives today that in any way relates to politics whether it be World War II, whether it would be inter-war (sp) Hungary, whether it be the Austro- Hungarian Empire, should be removed because they contain immoral information and they were collected through means that we today would not consider Democratic and constitutional. OK. And not just that, one of the big problems with this legislation and this is a technical aspect is it's impossible to implement. It is absolutely impossible to implement it and had the government actually consulted with a large number of historians and archivists before drafting or before suggesting this, they would have realized that's not possible. Most of these files. Most State Security files do not contain information on a single person. They contain information on groups of people. So, what does that mean? Does that mean if John Smith walks into the archives at 8:00 a.m. in

the morning, he will get the information on everyone else and Jane Doe who walks in at 3:00 p.m. will no longer be able to get her own file because someone else picked it up? So, in fact it's impossible to implement it. Also, one of the problems with this legislation is that Hungarian State Security files are already scattered as it is. They're not all located in the Historical Archives of State Security, which is what this piece of legislation in large part refers to. If you go to Hungary today you can find State Security documents in other archives as well, including county archives. So, the documents are scattered really in all kinds of different places. And thirdly, and this for me is what's really most important, if you look at material produced by Hungary's Foreign Ministry during the previous regime, those documents contain at least as much personal information on private citizens collected ultimately through unethical means as documents produced by State Security because diplomats, for example in Canada, diplomats in the United States as well in Western Europe sometimes played a dual role. Their role was simply was not only to go to receptions and give speeches, but it was also to produce information and files on Hungarian leaders and community organizations in those countries. And I can tell you that most of those files produced and the language used to describe Hungarian immigrant groups were not very friendly to say the least. In fact, what they did is they divided Hungarian immigrant organizations into two camps: the loyal camp and the sort of enemy camp. [unintelligible] in Hungarian. Those were two big categories used and I want to show you one specific example just, to give you an idea of how an ordinary diplomat who was not a State Security agent could engage in activity and produce documents that are similar if not identical to what an agent would produce. In 1981, a man called Yulaf Sombite (sp), who was the attaché at the Hungarian Embassy in Ottawa was essentially forced to leave the country because the Canadian government realized that he was engaging in conspiratorial behavior in the country. He was trying to essentially, by the whims of a Canadian government bureaucrat in the Ministry of Multiculturalism, and he was also trying to cause division within the Hungarian community. So, the Canadian Foreign Affairs called in the Hungarian ambassador and essentially threatened the ambassador and said if you don't stop this behavior we're going

to, there will be serious damage done to Canadian-Hungarian bilateral relations. And here's the document, one of several pertaining to this where the Canadian government confronts the Ministry of Foreign Affairs, it confronts the Hungarian Embassy in Ottawa in 1981. That's a late date. Keep in mind, 1981, this is near the end of the game. And it becomes clear, as you can see from this document, the Canadian ministry that ultimately the embassy is engaging in activities that are not normally engaged in by diplomats. And documents pertaining to Mr. Sombite's (sp) work, his information collected on Hungarians living in Canada, his attempts to cause division within the Hungarian community are currently stored in Budapest at the National Archives. Now current legislation doesn't actually touch documents like this. However, when you read through it, they read in a very similar manner to State Security documents. There's no real difference in quality and style in the information being produced here. So, it doesn't make much sense to try to shut down one archive and throw the information out, scatter the documents that people deem to be immoral if hundreds of thousands of other documents still exist in other archives that are just as immoral. And I'm convinced that the Hungarian government would probably have realized that pretty quickly had it consulted before, actually making this type of announcement, with historians and particularly with archivists. But that type of consultation didn't really take place. So where do we stand today? Well the announcement was made in December and following December I sort of took it upon myself to launch a campaign in Canada, but tried to make it international to show how much concern exists about this piece of legislation. And it really existed in Canada very strongly because Canada unfortunately had a bit of a reputation as a country that destroyed archival documents as well. In 1954 an ordering council in Canada led to the destruction of archival documents relating to the internment -- the illegal internment -- of Hungarians, of Ukrainians, of Poles, of Slovaks --of 8,579 Eastern Europeans, mainly citizens of the Austro-Hungarian Empire. Now that internment was not only illegal, the conditions in the camps in World War I were not considered to be acceptable by international conventions, by the Hague Convention for example at the time. But ultimately, their deplorable conditions and the Canadian government

wanted to avoid any kind of legal action by destroying the documents. So, they did in 1954. So, you can imagine historians and people involved and who know about this story in Canada are incredibly concerned whenever they hear legislation or proposed legislation in another country that attempts to do something very similar with the only difference being that they're not bureaucrats who are going into destroying the documents but, in fact they're using ordinary citizens to do the quote unquote dirty work. And this is what Janusz Kennedy --who was a Hungarian researcher historian who's played a very important role in researching State Security Archives -- what he called societal hara kiri, societal suicide, by going in and getting ordinary citizens to ultimately take out, scatter and destroy something that basically constitutes a country's national treasure and national heritage. So where do we stand today? Well we have more than 2,000 signatures as part of this petition. Eight major academic organizations signed and sent letters of protest to the embassy's Hungarian embassies in various countries including the Society of American Archivists here in United States, as well as the Association of Canadian Archivists, Canadian Historical Association and a whole string of organizations in Europe. The only response that's been received so far is a letter from Laszlo Pordine (sp) who is the Hungarian Ambassador in Canada, to Canadian archivists in which he wrote a long letter and said that he does not believe that ultimately this piece of legislation will lead to the destruction of archival documents or at least he doesn't believe it will lead to the destruction of most archival documents. However, no official response has actually been received by the government of Hungary, by the Ministry of Public Administration which is charged with actually drafting this. I do know that there has been a meeting between the State Secretary Ben [unintelligible] and a group of Hungarian archivists. This meeting happened at the end of March of this year and I don't believe there's been any resolution as to what will occur with those documents. But there are indications that the Hungarian government might be trying to backtrack and step back from the brink, so to speak. One of the indications is that reportedly one of the explanations the government might give is that rather than trying to destroy all documents it's in fact the legislation will only impact one group of documents which relate

mainly to search and seizure. The search of houses for example, private houses. I spoke about this possibility with Janusz Kennedy I who mentioned before has been quite involved with this and he doesn't really buy it. One of the reasons why he doesn't buy this explanation that in fact this legislation will only impact a small group of documents is because those documents apparently have already been distributed in 1995. So, they don't actually exist for the most part in government headquarters or in archives anymore. The real question in my mind I suppose going through all this is why there has not been a clear response from Hungary as to what they plan to do with these documents. A clear response that might actually clarify any misconceptions perhaps about what's going on. Nothing like that has been created and yet it's been more than four months now since this was announced and about four months since the whole petition campaign was started. So, we still await and we always certainly can be optimistic and we can always hope -- hope dies last -- that some of this will be resolved. But much like the media law this is something that has caught international attention and I suspect that the international public opinion will continue watching this issue until some kind of resolution is reached. [Applause].

01:12:12

MODERATOR: Moving now to the respondent's section of our program and we'll hear now from John Pavlik and Atilla Pokiest and Dan Kelemen and I'm having their responses together for both of their keynotes so that we can perhaps draw some connections between them and this will also be an introduction to the opening up the discussion to the floor. So perhaps John you could come up

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now. JOHN PAVLIK: Thank you. Well I have enjoyed the opening comments very much. Found them very enlightening and informative. I think it's not surprising that the media law elicited such a strong response from the global community of journalism.

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I think that the idea that there might be a restriction of journalism and its ability to provide a check on the government I think is something that journalists naturally take a very strong reaction to.

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And in this time of potential restrictions on freedom of speech in many parts of the world, I think that journalists take a quick and very vigorous response to that. So, I think that's not surprising, but I think it's also very commendable that there were reforms taken to the media law. But I think that additional reforms are still needed. Looking at some of the reforms that have been made that are appropriate and in the right direction. But looking at what's needed I would suggest some additional steps could still be taken to move even further to improve the media law, at least from the vantage point that I have. I'm no expert on the situation in Hungary, but looking at it from the point of view of the role of journalism in a democracy, some areas where strengthening could occur would include the idea of a shield law. In the United States there is something known as a shield law to protect journalists in providing the journalist with the ability to interview sources of news and information and provide a protection of their identity in certain limited situations where those sources might be in a situation where they're providing important information in a confidential way in situations where to reveal their

identity would inhibit them from coming forth to provide information as a whistleblower for example on abuses in government or in large institutions. And if they have no confidence that their identity might be protected in revealing that information to a journalist then they would be very unlikely to go forward. So, it's a situation, in a perfect world, you would never have to invoke any kind of protection like that. But the world being as it is, shield laws are often of great value. In the United States one of the big problems we have is we don't have a federal shield law. We have state shield laws. New Jersey, the state we're in, has one of the best shield laws for journalists. So, journalists working in New Jersey can interview a source and keep their identity protected and at a state level that identity does not have to be revealed in a court of law. However, if there's a federal investigation, a journalist can be subpoenaed and ordered to reveal the identity of the source and if they don't cooperate with the federal investigator they can be held in contempt and they can be jailed over that contempt of court and put in jail. And of course right now the one of the most sensational cases involving a potential situation related to this is the whole WikiLeaks situation where an organization, not a journalistic organization but an organization, has provided confidential information classified government documents and news organizations have used that information to provide investigative reporting that has made many governments including United States uncomfortable, but it has enlightened the public on many situations about international activities. And at the same time a possible source of that information -- a soldier in the military -- has been put in prison, has yet to be tried and it's been suggested that that source is the individual who made those documents available to the WikiLeaks organization. It's not exactly a journalism organization. It's not exactly a case involving the shield law, but it's a related type of situation and it is the type of situation that could present itself in Hungary in the future if a shield law were to be placed in effect in a reform situation in the future. So, it's something to consider if that type of reform were created. Now looking at the situation of who is a journalist is another important question to consider. I understand the reform has been placed to lift some of the constraints on online types of news organizations. But what constitutes the publication of news and journalism in

other types of media in mobile types of environments, on tablet devices, iPads or other yet-to-be-marketed technologies, electronic paper or other emerging devices that might not involve the delivery of information via the Internet or on other existing technologies. So, the media law might have to be further reformed in order to take into account those emerging technologies as well. And then individuals, citizen journalists, may be the individuals who are producing the content. How will those citizen journalists be protected in future situations where they may not be operating on behalf of a professional media organization that's licensed by the government? How will the media law pertain to a citizen journalist as it were if at all? It may be that citizen journalists perform a more important function on serving as a watchdog than professional journalists. I was recently at a conference in Moscow, Russia where research was presented that showed that social media: Facebook and Twitter, and other social media now are serving as a more important source of breaking news than professional news media for most citizens. So, as we move into this age of social media, how well the media law pertain to social media and the role of the citizen journalist and so media reform may need to further consider how social media function in this environment as well. So those are some of the suggestions that I would have as media reform continues to evolve, to look at emerging technologies, to look at the question of who is a journalist and to look at how we might protect the source of news when there are questions of anonymity in providing information that might put this source at risk and if not protected it might inhibit them coming forward. Thank you.

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MODERATOR: Atilla Pok, if you could come up to talk about the archives legislation. ATILLA

POK: Thank you very much.

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Let me first of all thank Jim for setting this up because this whole meeting came out of a lunch in New York about three or four weeks ago. We were discussing these issues and Jim suggested why not to discuss it in a more formal way. And why not invite some experts. I should like to say a few words about the very concrete issue and I should like to add a little bit too what Christopher presented in a brilliant and very balanced way. As in my position as the General Secretary of the Hungarian Historical Association, which is one of the oldest Hungarian civic organizations established in the year of the Hapsburg Hungarian Compromise in 1867,

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I have the task to build bridges so to say between the society and our guild.

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Between the community of professional historians and policy makers. When I was at home at the end of last month for a couple of days for that afternoon when I arrived, we set up a meeting of the governing body of this association and I also invited the leader of a similar association for archivists to report on the situation [unintelligible]. Unfortunately, he couldn't come because exactly at the same time that our meeting is scheduled, he has a meeting with [unintelligible] with the Secretary of State who is responsible for announcing these planned measures. And during the meeting I got a phone call that that meeting was over and Mr. [unintelligible], as you very well pointed out, suggested that the whole issue is in fact a kind of misunderstanding. His argument was the meeting was attended by the leaders of this Hungarian archivists association, one historian colleague of mine and as, I was told by some, a representative of said

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state secret services. And they discussed the issue and Mr. [unintelligible] insisted that it was, as you pointed out, focusing only on the documents that the State Security seized in the course of house searches at various times. Of course, this was not the issue that was originally communicated, but I think that this is reassuring. It shows that the government reacts not only to external protest, but also to internal protest because it took a little while until this of set up this protest.

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But as early as the first or the second day following the announcement quite a number of these Hungarian historians representing all colors so to say --because all professions are colorful, our profession is also quite colorful -- stood up and said that in terms of the communicated plan measures they can only protest and they will try to do that in any possibility. Me as a bureaucrat also in my field, I suggested that perhaps we should do that in a more formal way. And you can sign all kinds of petitions in your individual quality, but I think if an organization -- a professional organization of archives or a professional organization of historians -- gets together and tries to formulate some kind of a statement that's very important. But I think that the first step that have to be taken after such a document can be formulated to submit it to the politicians in charge.

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And this happened. The organization of archivists submitted a letter to Minister [unintelligible] and our organization following, our meeting on the 31st of March also submitted a letter to Minister [unintelligible].

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In our letter we also included a reference to his meeting with the archivists pointing out that this is a very promising step. And they very much hope that in the further course of the implementation of the plan, our experts will also be invited.

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In addition to that also, just as a piece of information, I should also should like to tell you that the Director or the General Director of ATBL the State Security Archives, Professor Garmoty (sp) also informed me that he told me that I could make it public that in his official quality, he also prepared the document to submit it to the respective committee of Parliament that is going to deal with that, explaining all the problems, all the difficulties, both in principle and also in terms of the impossibility of practical implementation. This is the first part of my comment. The second part of my comments would be perhaps a little bit more philosophical, if I may say that. For a pretty long time I worked closely together with Professor [unintelligible], who for a very long time, was the doyen of Hungarian historians. He had an unquestioned prestige on all possible sides and that made him also President of the Hungarian Academy of Sciences in a very critical point in the Spring of 1990 and I very well remember because during that time we met every week or sometimes even more often. We were of course also discussing what Christopher described now as the destruction or the shredding of the documents and all these

problems relating to the Secret Service Agency etc. His comment was quite surprising that I wouldn't have expected from a historian said, "If it were up to me," this is said in the Spring of 1990, "I would throw everything into the Danube and let us forget about it."

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Of course, he had lots of experiences, so to say, in his long life and I think he expressed the willingness also of his generation, but also some other generation of trying to come to terms with the Hungarian past. So, that whatever one or the other person did in the past shouldn't be a point of reference for later political deeds and political actions and political controversy. I think that this is a good intention. This is a good intention, for the past should serve the present in terms of learning from it, but it shouldn't be a political weapon. And it is in this context, I think, that it's very important for historians to protect their field. They have to make sure that archives should be left intact. That they should be allowed to deal with documents as it is professional in their professional work. This of course doesn't exclude that history can be used in other fields of life, including politics as well. And that's a different way of dealing with history. Just the same way as it is different if you are using history in higher education or secondary education, in primary education on every level of education, of course, you do not give exactly the same picture of history as you give it in scholarship, no doubt. So, and of course the collective memory discussed at Sunday lunches of various families is again different from all these fields. And they are all legitimate, but we have to be sure that these various levels do not mix. So, a vague memory shouldn't serve as the basis of a political action and the other way around. The past of course can never be fully reestablished or completely reconstructed. Of course, this is a philosophical issue. Access to the sources of the past remains always selective. Because some documents survived, [and] others didn't and Christopher gave a very good description of how impossible it is to implement the same. I think it can be compared to, some

extent if you remain in the philosophical level, to the work of a doctor -- let's say an internalist -
- who uses all kinds of sources to establish the state of health of a patient. If you give all these documents concerning the state of the lung, state of the kidney, the blood pressure report, everything to the patient he might look at that and say well that's it. That's it. You'll need an expert to make something out of these sources and in order to be able to make something out of the past on the basis of the sources you'll have to preserve these sources. And this is a very, very important task of anyone trying to represent the interests of the historians. On the other hand, we always have to pay, we have to accept the priorities of politicians. We cannot deny that there is a willingness to somehow to come to end the use of past in politics, and if this is a good intention, historians have to make every possible effort to help this -- as we are also trying to do with our letters to the respective Secretary of State and make sure that by preserving our sovereignty in our guild we should also participate in the public life of the country. But just the same, as the country have to safeguard its sovereignty our, profession also has to safeguard its sovereignty.

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Thank you very much. [Applause]

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MODERATOR: So, Dan Kelermen will be talking now about the EU perspective. DAN KELERMEN: Thanks Jim. [To Moderator] I just... because I was going to talk about the EU reaction to...are you still in there? I just wanted the one when you showed the four changes they demanded. In the, you know the four responses the they made. Thanks a lot Jim,

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and thanks for inviting me. This is an interesting occasion for me because I think I can say this is maybe an event kind of coming full-circle for me because this is the first time I've ever been involved in any academic event to do with Hungary. Just sort of ironic because I, like as Jim said, I'm the director of the Center for European Studies here. I'm a specialist on EU law and EU politics more generally. But once upon a time, as a young graduate student, or before then as an undergraduate, I was going to be a scholar of democratization in Hungary. That's how I started my academic career. You can tell from my name [that] I'm Hungarian or at least you can tell that my father was Hungarian.

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And, but interestingly, I just, I want to say something personal before I get into this because maybe it will make sense of this; when I started graduate school planning to study democratization in Hungary I thought that I said to myself, well Hungary -- and this was in the early 1990s -- I said they're going to want to join the EU, so I should learn something about the EU. And then I got hooked on studying the EU and didn't really come back to Hungary. And now I feel like maybe I do need to come back to studying Hungary, but not under the best circumstances unfortunately, because I think the developments we're seeing in Hungary now are deeply worrying and it does provide a real test of the EU's ability to put any constraint on these trends. And I'm going to say some things first about the media law and the reaction to it, but actually you covered it so well that there's not much more for me to say. I'll say a couple of things, but then I want to broaden it out to something that's a little more speculative which is about the potential reaction or the implications of this new constitution. I say speculative because it's really fresh off the presses. It's only Monday and in fact -- something which I think underlines the sort of lack of transparency in the process -- I was talking yesterday to the

leading expert on the Hungarian Constitutional Court in the US, Kim Scheppele from Princeton, said she can't get a hold of a copy from whatever they passed Monday. The last published version the, one that was sort of translated and sent around, was March 14th and there are problems in that translation anyway. But in terms of what happened Monday, we'll have to see. Okay. So first I'm not going to go through the whole story again about the EU reaction. I just want to talk specifically. I mean essentially Hungary passes this media law just as they're taking over the EU Presidency -- the rotating Presidency -- which is very awkward for everyone and a series of communications ensues back and forth with the Commission. I mean, what the question is really about by the way is two things; there's an EU audio/visual directive from 2010 which parts of this law were thought to potentially violate, and then there's more broadly questions of whether the media law might violate the provisions of the Charter on Fundamental Rights.

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But as you already described very well, the four main things that the Commission asked for, or you know asked for them to change, were -- sorry just got off my place here. These issues regarding balanced media coverage and the Hungarian authorities agreed they would no longer apply those provisions as widely as they had planned. So, lifted them for printed online media. On the country of origin principle, essentially the Budapest government agreed that now media operators legally established in other EU countries cannot be fined for breaching the Hungarian media law's provisions concerning incitement to hatred. On the issue of media registration, they agreed that "on demand" media services established in Hungary and other media -- sorry - - other member states would no longer be subject to prior authorization, which was something quite incredible in the original draft of the law -- prior registration. And then finally on, causing offence, they restricted that somewhat saying that it would be restricted to bans on situations

where there was incitement to hatred or discrimination. That being said, there is still some, it's still a very vague provision and including it says "incitement to hatred of the majority", which is a very peculiar thing. You usually don't,

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majorities usually don't worry about incitement. Usually these laws are designed to protect minorities. But that being said, of course when you list these four things the big question is, what's not on that list, which is the biggest one of all. What the whole thing is really about, which is the next diagram you showed about the political control of the media which the EU basically didn't touch. And I mean, there is a very peculiar thing in the reaction because basically after this the way Commissioner Kroes kind of pitched it was this was a big victory that showed the EU's ability to constrain. I mean obviously it goes against that quote you showed at the beginning from Orban where he's saying no there's no way we'll do anything because some outside power tells us to. He often says things about Brussels is not Moscow. We don't take orders from others and this sort of thing. But in the end actually, he did give in substantially on these provisions. But the one...and so some tried to treat this as a big victory for the EU, but what that ignores is the fact that they did nothing to address the political control of the media which is firmly in the hands of appointees of Fidesz. All right.

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So, now one thing to say about this is that the opposition figures in Hungary remain deeply skeptical saying that they don't view this as a victory that they still think the media will be compromised even with these amendments.

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I want to read a quote from a deputy leader of the LNP party, Gergely Karacsony, who said that the media law would need to be defeated three times before it could be really defeated: first by the resistance of journalists and civil society,

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second by the procedure of the European Commission based on European law and third by Hungary's Constitutional Court because he said the law breaches the constitution. But that brings us to Monday's developments because we no longer have the old constitution we have a new constitution. And in fact, we will have a new Constitutional Court. And this is...I mean I'm not going to say too much about the constitution. I find...I mean here I'll just say something personal; I'm a son of a Hungarian Holocaust survivor and reading that preamble just made me sick. It looks like something from the 30s and [is] very upsetting. But leaving aside the florid language and that sort of nationalist stuff, which by the way, you know many figures around Europe since Monday -- the Deputy German foreign ministers and others -- are saying [it] is not in line with European values et cetera. But leaving that aside if we go to some of the substance, the one thing -- and even I'll leave aside the substance on some of the moral issues that some people might disagree with on marriage being between a man and a woman, protection of the fetus from conception, all that -- leaving all that aside and all the other criticisms, I think the most worrying thing about the constitution which -- and this I had to get again from Kim Scheppele, because it wasn't fully...some of this was in the draft version I saw but not some of it was not -- but she's been advising the State Department here on what's going on in Hungary, so I think she's a pretty reliable source -- is that it looks like there's a dramatic effort just as there was with the influencing the media, now there's a dramatic effort to stack the Constitutional Court and to basically end constitutional democracy in Hungary. I mean, we still have

democracy right, but you don't have constitutional democracy under the rule of law. What do I mean? Well, first of all with the Constitutional Court they've severely restricted its powers. It's no longer going to be able to review laws that pertain to the budget or state finance until the budget deficit goes down below 50 percent of GDP. The court can no longer hear *actio popularis* petitions -- these are open constitutional challenges. It can only hear cases from substantial parliamentary minorities which is a quarter or more of MPs or constitutional complaints which is another type of complaint. The number of judges. I mean this is, if you know American history, the court packing plan. We haven't seen that. You don't see this too often but, here we have one. This wasn't in the draft, but I've heard that now, in the final version and maybe someone here has seen it, the number of judges is going to be increased from 11 to 15. Also, the retirement age in the version I saw was being dropped from 70 to 62. So basically, the combination of those is going to give Fidesz a comfortable majority of judges. So even if they lose at the next election they've got a court in their hands. So, if you think back to [unintelligible] comment about will need to defeat this media law through the Constitutional Court, well good luck with that because you're not going to because Fidesz now owns the Constitutional Court as of next Monday if, the president signs. So, I mean to conclude and I know basically, when I studied in Hungary at Kuzgaz (sp) you know that's in the early 90s you know and studied the language for many years. I have many good Hungarian friends. In fact, I have family still in Hungary.

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You know I never imagined that here a couple of decades later I could be giving a talk like this.

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You began saying that Hungary is a stable democracy. I don't think so. I think Hungary is still a democracy. But it's certainly not stable and I'm very worried for a country that I have great feelings about in general and that I care about and I'm very worried about the path it's taking right now.

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Thank you. [Applause]