Corruption Monitoring Program

Summary



March, 2020 – July, 2021

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In the shadow of the Covid-19 pandemic: state capture taken to the next level – Hungary between March 2020 and July 2021

The joint corruption monitoring programme of K-Monitor and HCLU evaluates the progression of state corruption and efforts to undermine the rule of law in Hungary through quarterly reports. We are publishing this special summary in addition to our regular reporting in order to provide a detailed overview of the events between March 2020 and July 2021.

In Hungary, the dismantlement of the rule of law and the elevation of corruption to the status of public policy are happening simultaneously, in strong correlation with one another, generally under the guise of some mission carried out for the public good. Currently, this mission is the response to the crisis caused by the coronavirus. By combining experiences from their respective areas of expertise, K-Monitor and HCLU aim to shed light on the corrupt processes concerning state assets and public funds that are taking place under the surface of crisis management efforts. Our analysis has confirmed our hypothesis that the government is utilising its pandemic-related powers for aims that are in conflict with the original intent of the special authorisation.

Due to the pandemic, the government declared a state of emergency twice, the first time on 11 March 2020, and then again on 4 November 2020. The state of emergency entails a special legal order, which enables the government to govern largely by decree and to restrict the exercise of certain rights. In the period between the two states of emergency, starting on 18 June 2020, the government announced a so-called health crisis, which – although to a lesser extent – still allowed for deviation from the normal legislative process and for restrictions on exercising one's rights. In the fifth section of this summary, we list the most important legal acts referred to in this summary. To date, the pandemic in Hungary can be divided into three waves, which resulted in an increased burden on the healthcare system, with ever higher daily infection and death rates. According to certain calculations, Hungary has had the highest death rate per capita due to the pandemic of any country globally.[1]

Fidesz, the governing party, has been in power since 2010. Throughout this period, it has regularly and seriously violated the rule of law, basic rights and the democratic values set out in the Treaties of the

1 https://www.bloomberg.com/news/articles/2021-04-20/hungary-with-highest-covid-death-rate-says-virus-has-peaked

European Union.[2] In spring 2022, parliamentary elections will take place. The current governing party already lost important strongholds in the 2019 local elections and now faces the consequences of the coronavirus pandemic. The years 2020 and 2021 have thus turned into an extended campaign and preparation period for the government, including a potential election defeat. This preparation includes a diverse set of tools, which range from establishing an information monopoly to limiting the scope of action of political opponents and strengthening the government's clientele. In preparation for the worst-case scenario, the government has also started to extensively outsource e its powers as well as a large number of valuable assets.

The most important findings of our reports are the following:

The government has further restricted the guarantees of the rule of law for public policy decisions – in this instance to fight the pandemic and its effects – as well as the associated provisions for transparency and accountability. Citing the "protective measures against the pandemic" as a reason, journalists, members of parliament and non-governmental organisations have received even fewer responses to questions aimed at checking the government's activities. Governmental organisations were allowed to extend the time for responding to requests for information of public interest by 45 +45 days, which made it considerably harder to obtain reliable information on the state of the pandemic – this then turned into a flexible rule to which public entities can make wide reference. The state often didn't even fulfil its obligation to provide necessary information to municipalities, which made responding to the pandemic on the local level more difficult. Another important step in against freedom of information is the amendment of the constitution aimed at narrowing down the definition of public funds, which is also an example of the legislator disregarding public discussion during the legislative process even if the acts concerned do not fall under the category of special legal order legislation.

While politically advantaged groups continue to receive a constant stream of free benefits, investment support and grant money from the government in the name of saving the economy, the government has frequently stripped its real or imagined enemies (local municipalities, opposition parties) of investment resources, calling upon them to show solidarity in the face of the pandemic. Moreover, the government also provided resources for investments undertaken by actors close to Fidesz and facilitated development projects connected to sports through budgetary decisions that were not justified by the pandemic, alongside other reallocations that were made for unclear reasons. A significant portion of funds aimed at helping the tourism industry has further increased the clientele's incomes from counter-crisis measures. According to the findings of HVG, a Hungarian economic

2 https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020SC0316&from=EN

weekly,[3] at most one quarter of the money from the Economy Protection Fund serves the protection of the economy (indirectly). The outsourcing of over 2,775 million euros (1,000 billion forints) of public assets to so called public benefit trusts (notably involving institutions of higher education, immovable property, and a quarter of all shares in MOL and Richter, two of the country's largest companies) creates a power and asset structure that is parallel to the state and over which there is no democratic control.

1. Measures taken to decrease transparency and obstruct action against corruption

Access to information of public interest

The modification of the process for requesting information of public interest undertaken in the spring of 2020 (and again in the autumn of 2020, following the second state of danger) allowed public entities to extend the legally binding response deadline to 45 days, three times the previous limit (which could be extended once by further 45 days), if the request would negatively impact their ability to carry out their activities related to the pandemic. There was no relevant epidemiological reason for this extension, as the number of administrative workers remained unchanged. The regulation was passed at a time when the public had a particular interest to access such information as soon as possible due to the pandemic, and the provision of information by the state was inadequate. The fact that certain elements of the modified regulation relating to requests for information continued to be in effect after the end of the state of emergency constitutes a breach of the freedom of information. In its decision of April 2021, the Constitutional Court ruled that the deadline extension wasn't against the constitution, while declaring that public bodies must specify the exact reason for such an extension, meaning that it's not sufficient to refer to the regulation in a general way.

Gratuitous easing of public funding rules

According to one pandemic-related decree, the member of the government responsible for emergency prevention (the head of government) and the person appointed by him may, in certain cases, grant exemptions from public procurement rules for procurements related to the coronavirus. In especially urgent cases, it is even possible to call upon a company to bid directly. The reason for the modification was to minimise the bureaucratic impediments to procurements related to healthcare and other sectors

3 https://hvg.hu/gazdasag/20210119_gazdasagvedelmi_alap_szamok

directly linked to the pandemic. This decree was not withdrawn upon the termination of the state of emergency, but was instead transposed directly into the Healthcare Act, meaning it may be applied for the duration of the coronavirus health crisis. Thanks to the easing of these rules, procurements worth hundreds of billions of forints may have taken place without any real competition, with a total lack of transparency. Moreover, the general public was not informed about the identity of the individuals empowered to grant these exemptions.

The procurement of ventilators is a good example of the application of these rules: During the first wave of the pandemic, the state purchased around 16,000 ventilators from different sources. However, there was a significant difference in the price paid for the equipment depending on which government entity was the customer. After several requests for information and the expiration of all legal deadlines, K-Monitor finally found out that it was Péter Szijjártó, Minister of Foreign Affairs and Trade, who granted some of these exemptions, but we still do not know how many others were granted and by whom. Similarly, we still have no information regarding the value and the content of the procurements undertaken by Ministry of Foreign Affairs and Trade. This is problematic because the economic purpose based on the titles of contracts that were made public could be questioned.

The Minister of Finance later refused to investigate the ventilator procurements, following a request to this end submitted by members of parliament. He argued that with the termination of the state of emergency, the law related to the relaxation of public procurement provisions was also withdrawn, and thus the contracts no longer needed to be monitored by the ministry – even though the regulation in question was simply moved to another statute.[4]

Amendments to the constitution that impede transparency

Late at night on 10 November 2020, the government submitted two new bills to parliament – the same night that citizens were expecting the learn the details of the strict regulations coming into effect the following day. One of the bills was about an amendment to the electoral law, while the other entailed the ninth amendment to the constitution. These bills had no correlation with the pandemic management activities at all, not even indirectly. In both cases, the legally mandated public discussions did not take place, meaning both pieces of legislation were issued in an antidemocratic and non-transparent manner. The timing – especially in the case of the proposal to amend the electoral law – clearly suggested bad faith on the part of the government and was incompatible with the provisions of the rule of law. The annual report of the National Authority for Data Protection and Freedom of

4 232/E. §, Act CLIV of 1997 on Healthcare

Information also highlights that "in 2020, no draft legislation was published on the website run by the government" for consultation, even though such public discussion is mandated by law.

As regards the ninth amendment to the constitution, we are focusing on those parts related to national assets and public funds. One such example is the definition of the term "public funds" ("Public funds are the revenues, expenditures and receivables of the state"), which was not previously included in the constitution. The submitter of the amendment presumably deemed it necessary to include this definition in the constitution due to recent case law supporting the transparency of the utilisation of public funds. The text of the amendment suggests that the income, expenditure and receivables of public benefit trusts – which are also discussed in another article of the amendment to the constitution (see below) – will not fall under the scope of public funds in the future. It is also questionable why the notion of public funds, which the bill approaches from a cashflow point of view, has not been supplemented with a definition of public assets.

The amendment stipulates that the establishment, operation and termination of public benefit trusts, as well as the performance of such public duties by a public trust, shall be regulated by means of a cardinal law (i.e. an act of parliament requiring a two-thirds majority). According to the reasoning provided, this provision "affirms the independence of public benefit trusts performing a public duty from the current government by binding their most basic rules to a cardinal law." By requiring a qualified majority, the current government aims to prevent any future government from altering these bodies, as the Fidesz party clique will thus be able to control them through positions on the board of trustees until the end of times. This has watered down the constitutional requirement of transparent management and public accountability for a number of organisations which indirectly receive budgetary support or national assets, for instance sports teams receiving transfers from a corporate income tax deduction scheme or the foundations of the Hungarian National Bank (MNB).[5] In this regard, the laws implemented in April 2021 are especially important, and we therefore discuss in more detail in the section entitled **"Transfer of public assets to foundations"**.

Obstructing parliamentary scrutiny

The governing party has undermined the work of parliament in many cases where the opposition has taken the initiative. The Welfare Committee, competent in issues related to epidemiological matters and public healthcare, has not been able to hold any sessions since November 2020. On 8 November, the governing party announced that it would not participate in the work of the committee until Lajos Korózs from the Hungarian Socialist Party (MSZP) had resigned as chairman. The reasoning Fidesz's

5 However, it is important to note that these public benefit trusts are subject to Act No. CXII of 2011 on the right of informational self-determination and on freedom of information.

decision was that during the first wave of the pandemic, Korózs had published a video that subsequently proved to be fake involving a woman claiming to be a paramedic, talking about the tragic consequences of the hospital bed clearance in the spring. Between March 2021 and June 2021, the committee held nine meetings, only four of which had a quorum of members present.[6]

The governing party's MPs were not even present at the extraordinary parliamentary session convened at the initiative of opposition representatives on 1 February 2021. When the opposition parties called for the meeting, they announced that they wanted to create committees of inquiry to examine the government's pandemic control and economic protection measures. Then, operating outside the bounds of parliamentary procedure, the six opposition parties set up a committee of inquiry, which began its operation on 12 February. László Kövér, the Speaker of the House – despite the fact that the committee acted in conformity with the relevant legislation – announced that the committee had no parliamentary mandate, calling it a "pretence of a committee operating without legal basis" with the aim of misleading the public; furthermore, he noted that the body would not be allowed to use the name "parliamentary committee of inquiry" either.

Public discussion of EU programmes

At the end of 2020, the Hungarian government formally started the public discussion of the documents for the 2021–2027 EU programming cycle. It laid out the partnership agreement and operative programmes for the utilisation of structural and cohesion funds, amounting to about 24.973 billion euros (9,000 billion forints) in total, including domestic co-financing. This is supplemented by the recovery and resilience plan, created to provide a basis for the framework of the recovery instrument, which is worth roughly 16.094 billion euros (5,800 billion forints). These strategic documents thus outline how nearly 41.622 billion euros (15,000 billion forints) will be spent.

At the beginning of the public discussion, many of the aims of the operative programmes were merely listed as bullet points, without elaborating on their precise content. As the financial frameworks were missing, it was not clear how much the government sought to spend on each of the operative programmes, and it did not provide any information on the distribution of funds within the programmes either. The published documents also lacked quantitative targets clarifying what exactly the country should achieve by the end of the seven-year cycle – and this despite the fact that the first drafts of the operative programmes had apparently been ready for some time, given that the public discussion of several calls for tenders began already in December of 2020. While we found a two-page draft of the operative programmes at palyazat.gov.hu at the beginning of the public consultation, the actual calls for tenders were presented for discussion in their final, fully developed state, each

6 https://www.parlament.hu/web/nepjoleti-bizottsag/a-bizottsag-ulesei

document containing 35-60 pages. In the middle of December, the government allowed for 10 days to provide feedback, and then closed the opportunity to comment on the proposals before the end of the year.[7] At the same time, the framework for the consultation on the Partnership Agreement and the operative programmes was also unclear. For example, it was not clear until when feedback on the documents could be provided, just as there was no information on the steps that would be taken after this round of feedback, or when the public consultation would end. Similarly, there was no disclosure on how the results of this consultation would be channelled into the planning process.

While the government barely provided any opportunities for public discussion, and didn't provide any needs and impact analysis, we were able to identify proof of political interest in several parts of the plans. One of the most significant chapters of the recovery fund is aimed at improving higher education, which would practically shower a number of recently privatised institutions – public benefit trusts, now overseen by trustees close to the government, with money. It is also telling that the government was apparently willing to give up on a soft loan of 9.434 billion euros (3,400 billion forints) in the interest of the rapid disbursement of the grants. Based on certain analyses, it did so in order to avoid having to discuss certain questionable points of the plan at length with the European Commission.

In May 2021, the government submitted a proposal to the European Commission, in which the total funds were reduced by 60% compared to the proposal published for public discussion. This questions the credibility of the entire public discussion process as the final plan presented for approval has never been released for public feedback . According to the latest reports, the modified proposal also failed to gain the immediate support of the European Commission.[8]

Lack of information on the pandemic

One of the best examples of the deficiencies of government communication is the case of the vaccination plan, only one excerpt of which was made available to the public. The government did not make this plan public despite the fact that a number of other countries have made their plans available in full.[9] In fact, there are countless examples of proactive and on-demand solutions to government communication in the region, which are not only more progressive but also aim for greater

7 https://www.palyazat.gov.hu/felhvsok-trsadalmi-egyeztetse-2021-2027

8 https://www.politico.eu/article/brussels-turns-down-hungarys-recovery-plan/

9 https://www.szabadeuropa.hu/a/oltasi-tervek-europaban/31036421.html

transparency than is the case in Hungary. In the same vein, the government has not published any up-to-date data on the infection and death rates in each municipality either.

This lack of information is also heavily affecting the media. After the government repeatedly refused to allow media organisations to report from hospitals treating people with coronavirus, 28 independent news portals published an open letter, asking the decision-makers to change this policy.[10] On the day the letter was published, the government spokesperson Zoltán Kovács reacted to the initiative with the following words: *"Hospitals are meant for healing, not for footage-making. The Operational Staff informs the publicity on a daily basis. Left-wing portals spread fake news and discredit the Hungarian healthcare system. Hungarian hospitals, doctors and nurses perform in an outstanding way and are making incredible efforts."*[11]

Differences in communication practices

The official communication on the pandemic is the responsibility of the Operational Staff, which has no identifiable press officer, and whose only point of contact is an email address. Following the deterioration of the epidemiological situation, the Operational Staff only held online press conferences, where journalists had to send in their questions in advance, and the Operational Staff then arbitrarily chose which ones to answer. The questions of several media organisations have never been answered.[12] Owing to the centralised manner of communication, it was thus practically impossible for a number of media organisations to get any information from an official source.

Since the beginning of the pandemic, several mayors have complained that they do not get access to information regarding infection rates in their municipalities. Both politicians and media representatives have discovered that government entities treat the same pandemic-related issues differently, presumably based on political considerations. In one case, it was revealed that Zsolt Szabó, the pro-government member of parliament for the city of Hatvan and surroundings, had received epidemiological data for his constituency from the Heves County Government Office. This information was then published in a local online newsportal, but later disappeared from the site. In contrast, Angéla Németh, the opposition mayor of the 15th district of Budapest, was unable to get

10 https://www.valaszonline.hu/2021/03/31/koronavirus-orban-viktor-nyilt-level-media/

11 https://hvg.hu/itthon/20210331_kovacs_zoltan_egeszsegugy_operativ_torzs_koronavirus_jarvany

12 https://tasz.hu/cikkek/gyorskutatas-igy-akadalyozza-az-allam-a-koronavirus-jarvanyrol-tudosito-ujsagirokat

access to the same data. In a similar case, the newspaper Magyar Narancs asked the Operational Staff and the administrator of an elderly care home in Magyarbánhegyes to confirm whether a COVID-19 outbreak had really taken place at the institution. The newspaper did not receive any answer, unlike the county paper belonging to KESMA, the pro-government media holding.

Deliberate misinformation

In April, Bernadett Szél, an independent member of parliament, petitioned the Ministry of Human Resources (EMMI) for access to the ministerial decision on the coronavirus-induced spring hospital bed clearance, alongside the underlying calculations, estimates and background materials. Since Szél did not receive these documents, she filed a lawsuit, which she won in mid-October. In spite of this, the EMMI's response only stated that the bed clearance was preceded by a capacity survey, and repeated the government's previous claim, which has since then been refuted several times, that only 2% of hospital beds had to be cleared, given that 58% of them were already empty. She received no document, estimate or calculation from the ministry that would have clarified the basis for the decision as to how many hospital beds had to be made available for the expected coronavirus patients. According to Szél, either no such calculation existed and the decision was made on a whim, or the government failed to release these documents despite the court ruling. In the autumn, however, after winning another lawsuit, she did receive the spring bed clearance numbers from the National Health Insurance Fund (NEAK), which showed that well over 2% of beds were cleared and that most patients in chronic disease wards were sent home.[13]

Vaccine procurement: a dog's breakfast

In our analysis, we are not concerned with judging the quality, safety and efficacy of the coronavirus vaccines authorised in Hungary, but only with issues relating to the responsible management of public funds in connection with these vaccines. The Russian Sputnik V and the Chinese Sinopharm vaccines were both authorised in Hungary. The contract for the Russian vaccine contains certain provisions that are unfavourable for the Hungarian side.[14] In addition, the purchase prices for these "eastern" vaccines have by now also come to light: For one dose of the Sinopharm vaccine, Hungary paid 31.5 euros (HUF 11,352), while one dose of Sputnik V costs 8.5 euros (HUF 3,063). It is worth comparing this data with the price of vaccines from the joint procurement of the EU, which became known in December 2020: The cheapest of the vaccines bound for Hungary is AstraZeneca, one dose of which

13 https://blog.atlatszo.hu/2020/10/tobb-korhazban-felere-harmadara-csokkent-a-betegek-szama-marciusrol-aprilisra/

14 https://444.hu/2021/03/11/orosz-vakcinaszerzodes-teljesen-egyoldalu-szerzodest-irt-ala-a-kormany

costs 1.78 euros (HUF 641), followed by the single-dose Johnson & Johnson vaccine at 8.50 dollars (HUF 2,526), the Pfizer-BioNTech vaccine at 12 euros (HUF 4,325) and the Moderna vaccine at 18 dollars (HUF 5,348) per dose.

The contracts that have been made public have also shown that in the interest of obtaining the Chinese vaccines, the government entered into a contract with a company with a questionable history.[15] Incidentally, this company is also associated with a company that profited from the ventilator acquisitions in 2020. In addition, in the case of this specific transaction, the use of an intermediary company appeared unnecessary. The company had not provided such services in the past, and the revenue from the procurement of the Chinese vaccine significantly exceeds the revenues it generated throughout its entire previous existence.[16]

It is important to note that Gergely Gulyás, Minister of the Prime Minister's Office, published the contracts for the acquisition of the Russian and Chinese vaccines on his Facebook page, which cannot be considered an official communication platform. In recent months, it has become more and more common that certain members of the government use Facebook to share official information; for example, Prime Minister Viktor Orbán announced several epidemiological measures via this particular social media platform.[17] Meanwhile, the government belatedly shares important information and documentation on its own official websites, which are also difficult to access. This is most likely done with the intention of directing citizens to the personal communication platforms of pro-government politicians, where they can be informed more frequently and directly about the governing party's political messages.

Measures taken to curb corruption

One of the few steps that the government has taken against corruption during this time period is an initiative to ban the dual praxis of doctors (private services offered at public health care institutions or conflicts between private and public services of doctors) and push back on patients paying informal gratuities to medical staff (according to a recent survey over two thirds of patients in maternity care have paid an expected gratitude payment prior to the new legislation[18]). Criminal law amendments and

15 https://atlatszo.hu/2021/03/13/szinjatek-lehetett-a-kinai-vakcinat-beszerzo-zavaros-hatteru-magyar-ceg-tulajdonosvaltasa/

16 https://g7.hu/kozelet/20210312/osszeer-a-kinai-vakcinabiznisz-es-a-botranyos-lelegeztetogep-beszerzes/

17 https://koronavirus.gov.hu/cikkek/orban-viktor-bejelentese-varhato-legujabb-vedelmi-intezkedesekrol

18 https://k.blog.hu/2021/01/02/maternity_english

other provisions implemented in parallel with an increase in doctors' salaries were not welcome by all health employees, especially due to the lack of proper consultations. Despite this, it seems that the government intends to limit the practice of paying informal gratuities, so much so that a fifty-person department has been formed within the National Protective Service to deal with the matter, whose employees may, even covertly, investigate if physicians are still accepting such gratuities.

In addition, after a two-year delay, the government finally accepted the new strategy for the prevention of corruption in June 2021,[19] which was essentially drafted with the exclusion of the public. Even so, the strategy contains some constructive elements, for example by defining corruption not only in the traditional, narrow sense as acts of bribery but as "all social phenomena by which someone abuses the power they are entrusted with". At the same time, however, it makes no mention of the building of clienteles at the expense of public funds and places insufficient emphasis on sensitive issues such as manipulated public procurements and non-transparentpolitical finance.

In a small positive sign, the government amended the Criminal Code in accordance with the relevant OECD recommendation, so that persons working for foreign public organisations and state or local government companies will in future be considered foreign officials.

However, the government and the state institutions did not take any substantive steps to address the corruption risks posed by the pandemic, although they have drawn attention to their existence.

2. Budget tricks

Misuse of the epidemiological rescue package

The government established two separate funds, one for epidemiological protection and one for economic protection. While the former mainly contains expenses directly related to the pandemic (for example the procurement of healthcare supplies), the purpose of the latter is to keep the economy afloat (for example through job protection and tax relief measures). It is important to emphasise that the creation of these funds can be justified by the new and unforeseeable expenditure brought about by

19 https://korrupciomegelozes.kormany.hu/download/a/21/a2000/1328_2020_(VI_19_)%20Korm_hat%C3%A1rozat.pdf
https://korrupciomegelozes.kormany.hu/download/f/ff/92000/STRAT%C3%89GIA%20k%C3%B6zz%C3%A9tett.pdf

the pandemic. Nevertheless, as we will show, it raises serious transparency concerns that the budgetary reallocation is happening from a central fund rather than from the various ministerial budgets.

For instance, it does not serve the transparency of public expenditure that the government decided, during the course of the year, to reallocate vast amounts (almost four times the original amount earmarked for the pandemic response, namely 10billion euros (HUF 3628 billion) in total) from these funds for items that have little to do with the state of emergency or maintaining the economy. (As the original amount was exhausted a long time ago, these reallocations have also increased the deficit.) This is a spectacular sum, even in light of the planned total government expenditure of around 66 billion euros (HUF 23000billion), on which the government decided by bypassing the normal budgetary procedure. This happened essentially on an ad hoc basis, as it was not always clear what specific measures each budget item would cover, or to which extent they served to mitigate the economic impact of the pandemic at all. This is all the more evident because, in many cases, these funds were used for investments, governmental pet projects and even salaries that were already included in previous budget items. According to an article in HVG,[20] at most one quarter of the money from the Economic Protection Fund serves the protection of the economy (even indirectly).

The main beneficiaries of these reallocations are projects led by various actors close to the government and several facility development projects connected to sports. The funds reallocated to sports are all the more interesting because they have not only come from the Economy Protection Fund, but also from the emergency government reserves and the so-called Central Residual Settlement Fund.[21] This is especially conspicuous, considering that (at least) an additional 388 million euros (HUF 140 billion) were assigned to sports than originally planned in the 2020 budget, while only an additional 139 million euros (HUF 50 billion) were allocated to healthcare.

In February 2021, the government declared three such undertakings to be highly important projects of public interest: the investments necessary for organising the European Handball Championship, the Hungarian participation in the World Expo in Dubai and the acquisition of the right to host the MotoGP – this also means that deviations from the general regulations are possible in the case of permits and contracts related to these projects.[22] In the final month of 2020, the government also

20 https://hvg.hu/gazdasag/20210119_gazdasagvedelmi_alap_szamok

21 https://telex.hu/gazdasag/2020/12/15/sport-jarvany-gazdasagfejlesztes-magyarorszag-kormany-magyar-kozlony

22 https://mfor.hu/cikkek/makro/harom-borzasztoan-fontos-ugyet-talalt-a-kormany--ez-most-a-kiemelten-fontos-kozerdek.html

carried out multiple unusually large reallocations in the budget and arbitrary give-aways: Extra money was allocated to the renovation of Buda Castle, churches, but also to government propaganda. [23] [24]

In May 2021, the government significantly modified the 2021 budget, by raising the 2.9% deficit target to 7.5%. Overspending became so excessive that even the MNB issued a warning.[25] However, the bill modifying the budget failed to address the lack of transparency, as it did not contain any charts, nor any numeric reasoning or serious macroeconomic forecasts.[26]

The modification provided further sources to the Economy Protection Fund, which operates in a completely non-transparent way. According to the modification, the volume of the Fund will be increased from EUR 7.12 billion (HUF 2,550 billion) to EUR 17.23 billion (HUF 6,172 billion)[27] These resources may be used for various purposes, and can be reallocated by the government without the authorisation of the parliament, similar to the situation in 2020.

Sectoral levies

The introduction of the special tax on the retail sector has mainly affected larger chains, as it increases progressively relative to sales revenue. The assumption that the introduction of this tax had little to do with the pandemic is also supported by the fact that it was made permanent in June 2020 – in fact, government resolutions against foreign-owned supermarket chains to the benefit of Hungarian companies may indicate its true purpose.[28]

The epidemiological tax levied on the financial sector resulted in revenues of roughly 153 million euros (55 billion forints) for the Epidemiological Control Fund. It is important to highlight that similar to the “normal” bank tax, the epidemiological tax is also based on turnover, which can be reduced by

23 https://mfor.hu/cikkek/makro/oriasi-rendezgetes-tobb-mint-300-milliard-forint-sorsa-dolt-el-az-ejjel.html

24 https://telex.hu/belfold/2020/12/17/gazdasagvedelmi-alap-magyar-kozlony-motorsport-vasut

25 https://www.mnb.hu/sajtoszoba/sajtokozlemenyek/2021-evi-sajtokozlemenyek/gyorsabb-hianycsokkentessel-a-fenntarthato-felzarkozasert

26 https://g7.hu/kozelet/20210506/a-modositott-magyar-koltsegvetes-tele-van-atlathatatlan-es-trukkos-szamitassal/

27 https://g7.hu/kozelet/20210506/a-modositott-magyar-koltsegvetes-tele-van-atlathatatlan-es-trukkos-szamitassal/

28 https://24.hu/belfold/2020/12/04/lazar-janos-kiszoritas-kiskereskedelmi-lanc/

providing funds to spectator sports in accordance with the Corporate Income Tax and Capital Return Tax Act. This may be of special significance, since several financial institutions will be loss-making (or nearly loss-making) this year. Therefore, they won't be obliged to pay corporate income taxes and thus won't be able to reduce their corporate tax base even if they provide funds to spectator sports. This measure is clearly intended to encourage banks to support spectator sports and to narrow the leeway of the private sector in the area of sponsorship and community involvement. The most important problem with the system of rebates enabled by the Corporation Tax and Capital Return Tax Act is that it channels funds to spectator sports in a non-transparent and unverifiable manner. The intertwining of politics and sports, and the fact that the leaders of most Hungarian sports associations are politicians of the governing party, make this kind of support all the more problematic. Sponsoring the right sports club became an expression of loyalty under the Orbán government, where Orbán's favourite teams became the biggest beneficiaries of the tax deduction scheme[29].

3. Concentration of capital and the outsourcing of public assets

Concentration of capital

The supervision of concessions was transferred to the National Concessions Office, which falls under the authority of the Prime Minister's Office, headed by Antal Rogán,[30] meaning the minister himself could in future decide[31] who may run a casino or a tobacco shop, thereby generating billions of forints in revenues. The government has recently incorporated mobile payments and waste management into the system of concessions, and it will select operators for these services for terms of eight years. It is certain that the losers of this new system will be the municipalities, which have already spent significant amounts of money on setting up various mobile payment platforms. And according to market actors, the establishment of such an artificial monopoly in the waste management sector will benefit the concessionaire the most, as the state has little to gain from it. A similar scheme has been

29 https://24.hu/sport/2020/05/11/tao-tamogatas-2020-felcsut-labdarugas-kezilabda-fehervar/

30 424/2020. (IX. 4.) Government Decree on the National Concession Office http://njt.hu/cgi_bin/njt_doc.cgi?docid=221689.388897

31 495/2020. (XI. 11.) Government Decree on the performance of the duties of the competent sectoral minister in respect of certain activities subject to concessions

launched for highway maintenance, that would outsource the sector to a single provider for 35 years[32]. However, the government refused to publish the justification and the impact assessment of the decision.

In April, the government adopted a bill establishing the Supervisory Authority of Regulated Activities, with effect from October 2021, which will be responsible for the allocation and supervision of tobacco and gambling concessions in the future (and the supervision of judicial enforcement and liquidation will be included in its scope of activities). The heads of this "independent" authority, as well as the members of the Concession Council, will be appointed by the present head of government, meaning a future government led by the opposition would hardly be able to develop its own, independent policy on the activities covered by these concessions.

In addition to concessions, the state is also promoting the concentration of capital through large investments and public procurement activities. Recently, we have gained knowledge of several enormous contracts which in and of themselves would be sufficient to establish control over entire sectors: For example, the government's gigantic tender for IT development will, similarly to advertisements, be centrally organised by the Digital Governmental Agency; related public procurements amounting to 2.622 billion euros (HUF 945 billion) [33] were issued at the end of January. This amount corresponds to roughly one-third of the government's total annual procurement budget in recent years.

Companies that have traditionally performed well in public procurement have continued to be successful. For instance, Duna Aszfalt was awarded a 749 million euro (270 billion forint) road construction tender.[34] This is especially interesting because it is owned by László Szíjj, who in the summer of 2020 hosted the Minister of Foreign Affairs and Trade Péter Szijjártó and his family on his luxury yacht on the Adriatic Sea. Duna Aszfalt is one of the most successful Hungarian construction companies in terms of public procurement, having won several billion forints in construction tenders in recent years.[35] According to his asset and income statement, the Minister of Foreign Affairs would hardly have had the funds for such a luxury holiday, but at the same time, it is highly problematic that a high-ranking member of the government accepts a gift far exceeding the threshold of declaration. This is especially worrying in case of an invitation from an economic player whose income stems

32 https://hvg.hu/gazdasag/20210614_autopalya_utfelujitas_koncesszios_eljaras

33 https://telex.hu/gazdasag/2021/01/27/majdnem-egybillio-forintra-ir-ki-kozbeszerzest-a-rogan-fele-digitalis-kormanyzati-ugynokseg

34 https://hvg.hu/gazdasag/20201218_ner_duna_aszfalt_magyar_kozut

largely from doing business with the Hungarian state. (The minister was unwilling to answer questions regarding the details, and Gergely Gulyás, the Minister leading the Prime Minister's Office, called the travel a "family vacation" and as such "a private matter").

In addition, the flow of budget funds to well-known entrepreneurs close to the government has continued. In particular, the companies of Lőrinc Mészáros (Hungary's richest man, former mayor of the prime minister's hometown and one of his long-time friends) have continued to perform well in public tenders. For example, they received 97 million euros (35 billion forints) for various additional works related to road renovation,[36] won a tender for water utility development in the city of Göd worth 30 million euros (10 billion forints)[37] and a tender for the insurance brokerage activities of the Paks II nuclear plant investment.[38] Meanwhile, their ongoing developments receive additional budgetary support, too.

Apart from the activities detailed above, the largest government backed oligarchs have obtained additional significant shares in important sectors through mergers and acquisitions. In the energy sector, Lőrinc Mészáros's company Opus Global Nyrt. has acquired Hungary's largest pipeline gas distributor TIGÁZ,[39] which supplies nearly half the country with gas. It has previously been reported that Opus may buy Tiszántúli Áramhálózati Zrt., an electricity grid operator, from eON.[40] Meanwhile, the power plant that provides 60% of Budapest's district heating services will apparently come under the ownership (through offshore connections) of a company associated with Árpád Habony, an

35 https://orszagszerte.atlatszo.hu/hivatalos-szijj-laszlo-duna-aszfaltja-netto-92-milliard-forintert-epitheti-meg-az-uj-duna-hidat/
https://magyarnarancs.hu/belpol/szijj-laszlo-cege-803-millioert-epitheti-az-utat-rakosmenten-133180
https://atlatszo.hu/2020/08/26/az-elmult-harom-evben-tobb-szazmilliard-forintnyi-unios-forrast-hasznalt-es-7-luxusjachtnyi-profitot-termelt-szijj-laszlo-epitoipari-cege/

36 https://www.napi.hu/magyar_vallalatok/potmunkak-meszaroseknak-harmincot-milliardert.718629.html

37 https://24.hu/belfold/2020/11/30/tender-meszaros-lorinc-god/

38 https://www.napi.hu/magyar_vallalatok/paks-2-bizotsitasi-alkusz-meszaros-lorinc-kozbeszerzes.716741.html

39 https://forbes.hu/uzlet/a-teljes-tigaz-meszarosekhoz-kerulhet/
https://hvg.hu/gazdasag/20210312_Meszaros_Lorinc_Tigaz

40 https://www.portfolio.hu/uzlet/20201228/szerzodest-irt-ala-az-opus-az-eon-nal-megveszik-a-titaszt-463324

informal adviser of the prime minister and the spin doctor behind Fidesz's communication strategies.[41] [42]

In the final quarter of 2020, the National Communication Office (NKOH) gave an additional 49 million euros (18 billion forints) to the company of Gyula Balásy,[43] another example of a government-close communications firm who practically has a monopoly. Under the leadership of Antal Rogán, the NKOH has also concluded an organisational development framework contract worth nearly 83 million euros (30 billion forints) with two virtually unknown companies, without real competition.[44] Another large-scale winner of communication tenders was István Száraz, a relative of György Matolcsy, the governor of the MNB; as the sole applicant, Száraz's company was awarded a 5.5 million euro (2 billion forint) communications tender by the MNB.[45]

In December of 2020, after several years of preparation, Magyar Bankholding Zrt., Hungary's second largest private-sector bank, was established by merging the Takarék Group, Budapest Bank and MKB. Via the Takarék Group and MKB, Orbán's close friend Lőrinc Mészáros holds significant shares in the new bank. With the establishment of Bankholding, the government is likely seeking to rein in OTP, the country's largest private bank.[46]

Budapest-Belgrade railway line

The Budapest-Belgrade railway link will be the most expensive railway line ever built, with an aggregate cost of up to 2billion euros (750 billion forints). The Hungarian state will finance about 15% of the costs directly, with the remaining 85% coming from a Chinese government loan. The Hungarian government signed a credit agreement to this end in April 2020. The investment has already raised myriad questions, for example when it will pay off, what advantages it offers for the country and even

41 https://hvg.hu/360/202050_vpp_project_beerett_habony_projektje

42 https://nepszava.hu/3101694_ner-kozelbe-kerult-budapest-fo-tavhotermeloje

43 https://blog.atlatszo.hu/2021/02/18-milliardot-koltott-allami-kampanyokra-a-kormany-2020-utolso-negyedeveben/

44 https://blog.atlatszo.hu/2021/01/30-milliardos-keretszerzodest-kotott-a-nemzeti-kommunikacios-hivatal-ket-kis-ceggel/

45 https://blog.atlatszo.hu/2020/12/ismet-szaraz-istvan-cege-nyerte-a-magyaremzeti-bank-ketmilliardos-kommunikacios-tenderet/

46 https://infostart.hu/gazdasag/2020/12/16/letrejott-magyarorszag-masodik-legnagyobb-bankcsoportja

what the total costs will be. And we may never know the answers to these questions, since the act on the development of the Budapest-Belgrade railway line qualifies the project as a priority investment (consequently, simplified authorisation rules apply), and it essentially gives the Minister of Foreign Affairs and Trade blanket authorisation to classify all related documents for a period of ten years.[47] Since last year, we at least know that the company of Lőrinc Mészáros will again play a significant role in the implementation of this giant project, together with a Chinese partner.[48] The extremely large volume of documentation required during the procurement process suggests that it was not in the government's intention to organise a proper tender, and that there was even an overlap between the investor's and the contractor's experts preparing the project.[49]

Transfer of public assets to foundations

From September 2020 until the end of November 2020, the government took the outsourcing of state assets to various foundations to new levels. These processes can hardly be justified, and the submission of the ninth amendment to the constitution puts them in an alarming perspective. In 2021, these processes continued at even greater volumes than in 2020, and it can be described as a means of transferring power: By outsourcing public assets to a foundation, certain public services will be formally performed by bodies that are independent of the state, and the Hungarian state will lose its 25% stake in two strategically important companies, MOL and Richter (including dividends and share rights). The governing bodies of these foundations include a large number of people who are close to the government or even members of it. The transfer of public assets falls into several categories. These include, first of all, the restructuring of the higher education system and the use of this framework for asset transfers. Public universities and other institutions are thus either transferred to new or to already existing private foundations linked to the government or to Fidesz politicians (such as the foundation in charge of the Mathias Corvinus Collegium, MCC),[50] which then receive substantial assets to perform public services associated with higher education and culture. The stated aim of this change

47 https://24.hu/fn/gazdasag/2020/05/26/eldugja-a-kormany-mennyit-koltenek-a-budapest-belgrad-vasutra-koltsegvetes-2021-meszaros-lorinc-varga-mihaly-orban-viktor/

48 https://index.hu/gazdasag/2019/06/12/meszaros_cege_opus_megkototte_590_milliard_szerzodest_a_budapest-belgrad-vasutvonalra/

49 https://fonodo.reblog.hu/maguknak-irtak-ki-az-alomvasutra-a-tendert-a-kinaiak

50 https://hang.hu/belfold/2020/10/19/magankezben-jobb-helyen-van-a-vagyon-mint-az-allamnal-mondta-az-allamtitkar-majd-atadta-maganak-az-allami-vagyont/

was precisely to make these foundations independent of the current government, but by requiring a qualified majority, these rules are in effect unchangeable.

The outsourcing of universities to foundations took place in several waves. Corvinus University of Budapest was already transferred to a foundation in 2019. In the autumn of 2020, this process was repeated at several other universities, which in the case of SZFE, the University of Theatre and Film Arts, was met with significant resistance from both students and teachers. This included a blockade of the university building, strikes and ultimately the departure of both professors and students. In January, many bigger universities outside the capital (the University of Szeged, the University of Pécs and the University of Sciences of Debrecen) as well as Semmelweis University of Budapest started to be organised under a public foundation. This time, those concerned didn't actually find out what would happen from a legislative proposal; instead, a formal consultation was launched by the Ministry of Innovation and Technology. According to news reports, the heads of the non-Budapest universities were invited to the ministry for a discussion, where they were then essentially presented with an ultimatum, consisting of the benefits they would enjoy under new model and the disadvantages they would face if they rejected it. Apparently, the ministry made it clear during the meeting with the non-Budapest universities that the new model was the only way for them to keep their clinics and medical departments. Despite the fact that in theory, the aim of this change is the privatisation of university education, the ministry, in contrast with the previous instances, actually promised more state funding. What is more, it also proposed a possible additional budget for pay rises at universities changing to the new model, as their employees will lose their civil servant status and thus face greater vulnerability. This privatisation would be lopsided, given that with the exception of buildings they are already using, the newly reorganised universities would not receive any new capital with which they could manage their affairs more or less freely.[51] Instead, just like public universities, they would receive money from the government budget for the financing of their operations. It is important to note that according to the amendment to the law on higher education passed in December, these newly promised funds will not be at the disposal of the universities themselves, but of the foundations managing them – run by Fidesz-close trustees.

Again, unrelated to the emergency, parliament passed several pieces of legislation that provide significant assets free of charge to foundations close to the government. One of these is the foundation that is running the Mathias Corvinus Collegium (MCC). MCC is an elite college for advanced studies and leadership training that has several ties to the government. It has received shares worth 805 million euros (exactly the same amount that Corvinus University, which has nearly 18,000 students more, received when it switched into the foundation model) and two valuable properties on Budapest's

51 https://hang.hu/belfold/2020/12/25/100-milliardot-kapott-a-mathias-corvinus-collegium/

Gellert Hill for expanding the college. Permitting procedures related to the construction work on the latter were declared to be a matter of high importance from the point of view of the national economy.

On 27 April 2021, parliament passed several laws according to which most of Hungary's higher education institutions will no longer be managed by the state: Outside of Budapest, there are no universities left which aren't either maintained by a foundation or a church. In addition, many more asset management foundations were created in the fields of culture, education and agriculture, with their leadership and oversight being handed to entities close to the government.[52] At the same time, the regulations related to public benefit trusts were finally codified in an act that needs a two-thirds majority to be amended.[53]

From the perspective of anti-corruption, the most worrying development is the fact that while the state has provided (and can continue to provide) significant assets to public benefit trusts performing important public services – such as higher education or (in the case of university clinics) healthcare activities – the government's options to enforce the performance of these services will be limited. Boards of trustees are unaccountable, their members cannot be removed, and the state basically disclaimed all of its founder's rights in their favour.

After the appointment of the first boards of trustees, the state or the government will no longer have the right to recall the board members, not even in the event that the foundations fail to perform the public service entrusted to them or misuse the substantial assets they manage. This is particularly problematic because the act basically does not determine any rules about conflict of interest relating to members of boards of trustees. Active Fidesz politicians and government members have been appointed to these boards – according to some calculations, nearly 40 to 50% of board positions have been filled with members linked to Fidesz or the government directly, and an additional 20% are connected to the government in a less direct way.[54] Consequently, the government's stated aim (namely, that the reform is necessary to reduce the dependency of higher education institutions on the government and guarantee the autonomy of universities[55]) appears unfounded. In this regard, independence and autonomy would only really come into play in case of a government which is different from the current one, as the strong personal bonds in place perpetuate the power of the latter over these foundations.

52 https://444.hu/2021/04/27/megszavazta-a-parlament-hogy-alapitvanyokba-szervezzek-ki-a-kozvagyont

53 https://magyarkozlony.hu/dokumentumok/c53d1cad7ddda39a2f4abe45bb8ce011da4413c1/letoltes

54 https://mandiner.hu/cikk/20210427_egyetemi_modellvaltas_ime_az_ujabb_kuratoriumi_tagok_nevsora

55 https://www.portfolio.hu/gazdasag/20201215/elfogadtak-az-alaptorveny-kilencedik-modositasat-461860

A different type of risk emerges when it comes to the plan to set up a Hungarian campus of China's Fudan University: In the framework of a large-scale investment project, the Hungarian government is planning to bring one of the biggest Chinese universities to Hungary.[56] According to these plans and the proposal from the ministry in charge, the costs will be paid by the Hungarian side, using a Chinese loan, Chinese construction materials and the involvement of Chinese companies. During the consultations related to the plan, the affected municipalities' recommendations (led by the opposition) were not taken into consideration,[57] and only large-scale protests of citizens convinced the government to delay the project to 2022, after the elections. Nevertheless, the bill that establishes the public trust charged with maintaining Fudan University's Hungarian campus, which provides it with valuable real estate in Budapest, was already adopted by parliament.

Support of tourism: the Kisfaludy Programme

At the same time, the Kisfaludy Programme, launched in 2017, has continued to progress at rapid speed, with the government making new funds available to subsidise the renovation of tourist accommodation establishments.[58] Even though this new funding structure has been communicated as though it were an integral part of the activities aimed at mitigating the economic crisis caused by the COVID-19 pandemic, and the funding for tourism has generally been increased, the question remains why the programme was not expanded[59] to include the renovation of tourist accommodation in Budapest, which was the most affected by the pandemic. Through this structure, approximately 14,000 applicants were granted the equivalent of 110 million euros in total.

However, the most contentious points of the Kisfaludy Programme relate not to this new structure, but to a tender on "The development of existing large-capacity hotels and the establishment of new hotels" issued in December of 2019. The fact that the tender was issued a few days before Christmas and was then already closed on 7 January 2020[60] because "the funding requests of the applications received

56 https://444.hu/2018/10/30/orban-viktor-egy-kinai-egyetem-mukodesere-rabolintott-a-ceu-meg-mindig-var

57 https://www.valaszonline.hu/2021/06/07/fudan-rozsdaovezet-budapest-vizpart-nagyvasartelep-kinai-befolyas-diakvaros/

58 https://palyaz.hu/kisfaludy-palyazat/

59 https://mfor.hu/cikkek/makro/orban-viktor-szukiti-a-teruletet-budapestiek-nem-is-palyazhatnak-allami-tamogatasra.html

60 https://kisfaludyprogram.hu/cikkek/kozlemeny-a-nagy-kapacitasu-meglev-szallodak-fejlesztese-es-uj-szallodak-letesitese-cim-palyazat-felfuggeszteser-l-57

exceeded the announced framework amount several times" is suspicious in and of itself. It can be assumed that the tender was leaked, as it is nearly impossible to draft a proposal in a little over two weeks. However, when Ágnes Vadai, an opposition member of parliament, asked the Chief Prosecutor General Péter Polt to investigate the matter, he stated that his office did not have the authority to determine whether there were any irregularities because the assessment of grants does not fall under the scope of the Act on Administrative Procedure. The initial framework amount was 55 million euros, but in May 2020, when the results of the tender were announced, we discovered that 232 million euros had been handed out. This is supported by the fact that companies established only a few days prior to the announcement of the tender could apply as operators and be awarded funding.[61] For example, Adventor Kft., a company linked to the aforementioned billionaire László Szíjj, applied as a manager of hotels, despite the fact that Szíjj only bought into it just a few days before the results of the tender were announced.[62] Furthermore, in addition to other such cases, it is important to note that in the last three years, 0.5% of applicants received around two-thirds of the 832 million euros available through this tender.[63]

Apart from the Kisfaludy tenders, the National Tourism Development Agency may also provide ad hoc support. For example, according to media reports, another one of László Szíjj's luxury hotel construction projects was subsidised in this way.[64] Information about such funding activities is very difficult if not impossible to come by. In December 2020, it was revealed that the agency had disbursed a record amount of aid, totalling about 1.5 billion forints, to the members of an interest representation organisation called the Stylish Rural Restauranthood and Balaton Circle, in which a well-known winemaker from Lake Balaton, Bence Laposa, who also happens to advise the agency, was then a senior representative. The suspicion of a conflict of interest was raised not only by the fact that Laposa's companies won the largest amount of funding, but also because only those who were invited by him to a private consultation with the agency were informed about the possibility of receiving individual aid. The news caused shockwaves among a wider circle of entrepreneurs because most hospitality operators were only able to receive relatively small amounts of state aid, with considerable delays, after submitting a lot of paperwork. After the scandal, Laposa resigned from his

61 https://index.hu/gazdasag/2020/05/29/alapitott_egy_ceget_majd_hirtelen_nyert_8_milliard_forint_tamogatast_a_volt_amator_labdarugo/

62 https://k.blog.hu/2020/07/27/morzsanak_tunnek_a_panziotamogatasok_meszaros_ner_hoteljeihez_kepest

63 https://www.valaszonline.hu/2021/02/26/turisztika-tamogatasok-ugynokseg-mtu-guller-zoltan/

64 https://24.hu/belfold/2020/08/10/visegrad-luxushotel-tiborcz-istvan-szijj-laszlo-mtu-kozpenz-egyedi-tamogatas/

position in the Balaton Circle, although he later stated in an interview that he does not feel that the criticism was legitimate.[65]

An analysis by the economic portal G7 also showed that the aid provided by the National Tourism Development Agency is unevenly distributed in another way: Pro-government municipalities received 500 times more aid than opposition-led ones,[66] and even the beneficiaries of aid for developing tourism across borders are entrepreneurs close to the government.[67] Meanwhile, the agency handles public funds essentially as its own money, enabling it to decide on tenders in secret discussions and to publish information on the aid it grants in bulk, in an unsearchable way. With regard to requests for information of public interest, the National Data Protection and Information Freedom Authority (NAIH) also condemned the agency for refusing to publish the names of the members of its evaluation jury, thereby disregarding a request from the NAIH.[68]

Favouring businessmen close to the government over foreign investors: Liszt Ferenc International Airport and the AB Aegon insurance company

The operation of the Budapest International Airport was quite a lucrative activity until the coronavirus pandemic broke out and the associated restrictions were implemented. In October 2020, news of the possible purchase of Budapest Airport by a consortium of Hungarian companies hit the media. This offer was made with significant support from the Hungarian government (according to some sources, the idea for the acquisition came from none other than the prime minister himself). The majority owner of the Budapest Airport is currently a Canadian retirement fund, which according to media information does not intend to sell, though this does not seem to have discouraged the consortium of potential buyers. The government is not only supporting the buyers implicitly – so much so that in the interest of weakening the present owners' negotiation position, it vetoed the company's credit application with the European Bank for Reconstruction and Development (EBRD). This action is unprecedented (in effect, the government vetoed a credit application with an international organisation

65 https://24.hu/kozelet/2021/02/18/laposa-bence-interju-badacsony-magyar-turisztikai-ugynokseg-kisfaludy-program-egyedi-tamogatas/

66 https://g7.hu/kozelet/20210219/a-fideszes-telepulesek-kozel-500-szor-tobb-turisztikai-tamogatast-kaptak-mint-az-ellenzekiek/

67 https://hvg.hu/360/20210120_Kisfaludy_Program_hataron_tuli_tamogatasok

68 https://naih.hu/files/Infoszab_jelentes_NAIH-2021-2095-1.pdf

in the interest of decreasing the company's value and liquidity so that its negotiating position would be less favourable compared to the government's chosen buyer.) In this case, the Hungarian government essentially flew in the face of the requirements of fair competition.[69]

In May 2021, László Palkovics, Minister for Innovation and Technology, sent a message to the foreign owners via the media claiming that the Hungarian state would take back control of the airport; by 1 June, he officially became the government commissioner responsible for preparing the acquisition of a majority stake in Budapest Airport Co. Ltd. for the state.[70]

It was also no less unusual that the Ministry of the Interior, using the authorisation it had obtained in connection with the pandemic management,[71] prohibited the sale of the Aegon insurance company to the Vienna Insurance Group (VIG) on the grounds of classified national security reasons. Analysts believe that the ministry wanted to force the purchase of the insurance company by a buyer close to the government.[72] In 2018, the parliament passed the Act on Controlling Foreign Investments Endangering Hungary's Security Interests, which stipulates that foreign investors require the approval of the Minister of Interior before taking a controlling interest in companies operating in key sectors or launching such a company. The obligation to notify the ministry applies in cases of direct or indirect ownership exceeding 25% of shares – and in the case of public limited companies, the threshold is reduced to 10%. The act cites, for example, the manufacture of weapons and ammunition, the energy sector and telecommunication services as key sectors. Originally, it only applied to acquisitions by third-country investors, but according to Government Decree 532/2020 (XI. 28) on economic protection measures during the state of danger, this also applies to investors from the EU and the EEA for the duration of the state of danger. Under this decree, insurance and reinsurance activities were included in the scope of the law, just one day prior to the announcement of the Aegon–VIG deal. A similar decree was issued last spring, when the government made the acquisition of shares in strategic companies subject to the approval of the Minister of Innovation and Technology.

69 Fundamental Law, Article 2: Hungary shall ensure the conditions for fair economic competition. Hungary shall act against any abuse of a dominant position, and shall protect the rights of consumers.

70 https://nepszava.hu/3121264_hivatalos-palkovics-targyal-a-ferihegyi-repter-uzemeltetesenek-visszaszerzeserol

71 https://net.jogtar.hu/jogszabaly?docid=A2000532.KOR

72 https://telex.hu/gazdasag/2021/04/30/aegon-eladas-most-mindenki-arrol-otletel-hogy-milyen-nemzeti-bajnok-biztosito-kell-a-hazanak

These two cases are excellent examples of the increasing overlap between state interests and the private businesses of individuals close to the government, and it seems that the government (or at least some of its members) are not really concerned with keeping a clear line between private and state assets.

4. Decisions that disproportionately disadvantage opposition-led municipalities

Liget Project

The renewal of the Budapest City Park, which has been going on for years, is a topic of heated political battles between the government and the opposition mayor of the capital. The government labelled the project as an investment of special public interest; it ruled against the application of the prohibition on alterations of the area in question and then declared that a municipal decree banning alterations of the park did not apply. The purpose of this action is obviously to guarantee the continuity and completion of the Liget Project, which contravenes both the plans of the municipality and the government's earlier statement that no investments would be made in the park with which the people of Budapest did not agree.

Withdrawal of municipal resources

The government twice issued a decree – first in spring 2020 and then again in November – to make public parking free of charge throughout the country. The measure was taken on the grounds of pandemic control, but the lost revenue placed a heavy burden primarily on Budapest and the other larger cities. In April 2020, on the basis of a government decree, the vehicle tax was also redirected from the municipalities to the central budget, which especially affected those towns where this tax was the sole source of revenue (mostly smaller municipalities without any revenue from the tourism or business tax), or previously accounted for a considerable part of tax revenue.

Then, on 1 December 2020, the government issued a decree prohibiting local governments from imposing taxes in excess of the 2020 rates or any new types of taxes for the 2021 tax year. These steps alone significantly limited the financial room for manoeuvre of local governments; however, their true scope only became clear after the government announced another decree just before Christmas, which halved the business tax for small and medium-sized businesses for 2021. According to the Alliance of Hungarian Municipalities, this decree resulted in 150 billion forints in lost revenue for the

municipalities[73] – putting the government in the position to arbitrarily decide which municipalities to compensate and to what extent.

These steps affected every local council; such a dramatic reduction of financial leeway can lead to a deterioration in the quality of obligatory and non-obligatory public services or even their discontinuation, which may in turn damage the principles of subsidiarity and municipal autonomy.

Withdrawal of resources from opposition-led municipalities

Apart from these tax revenue reductions affecting all municipalities, the government also instituted measures that only had affected the capital or its opposition-led districts. The emergency legislation also gave Finance Minister Mihály Varga the power to redeploy funds from practically any government-handled appropriation in the 2020 budget to the Economic Protection Fund. Around the end of April 2020, the Minister of Finance Minister exercised this power, and simply transferred funds amounting to 1.1 million euros (400 million forints) and 3.1 million euros (1.125 billion forints), which had been intended for the Budapest districts of Ferencváros and Józsefváros, from the local government subsidies budget of the Ministry of the Interior to pandemic control. Since a reduction of this scale did not happen anywhere else, it can be assumed that it was done arbitrarily and with the aim of punishing opposition-led districts. In addition, health development funds that had previously been allocated to three opposition-led districts of the capital were withdrawn, only to be handed over to pro-government districts, also for health purposes.

Apart from the above-mentioned tax revenue reductions, the government also put the capital into an extremely difficult position by increasing the municipality's contribution to the operation of public transport in the metropolitan area by 5 million euros (HUF 1.8 billion), around 25 % until the end of 2022.

Opposition municipalities receive less compensation

At the end of 2020, the government decided to compensate the municipalities for the lost tax revenue, while giving clear preference to towns with pro-government mayors. All towns with county rank that are led by a pro-government mayor and have a pro-government majority in their town councils received a fixed sum of 4 million euros (HUF 1.38 billion) over which they could freely dispose. Nagykanizsa and Szekszárd received less financial aid, as they have town councils with an opposition

73 https://www.napi.hu/magyar_gazdasag/iparuzesi_ado_jol_meno_kulfoldi_cegeket_tamogat_a_kormany_az_onkormanyzatok_bevetelebol.720903.html

majority but pro-government mayors. Among the towns with county rank that are not led by pro-government mayors,[74] only Salgótarján received any aid, but the amount was reduced to 1.1 million euros (HUF 400 million). Since all towns with county rank that received aid were allocated the same amount, irrespective of their size, discrimination inevitably arises. This is also supported by the fact that Szekszárd, with a population similar to Salgótarján, received the "full" amount of aid. At the same time, Budapest and seven towns with county rank did not receive any such aid at all.

Certain municipalities led by an opposition mayor and a town council with an opposition majority (Eger, Miskolc) received aid earmarked for specific purposes (meaning they could not freely use it), but these sums did not compensate for the lost tax revenue brought about by the government's decisions.

Discrimination by the government was also evident in the districts of the capital: Two districts, both under pro-government leadership, received earmarked aid, while none of the opposition-led districts received any support at all.

During the third wave of the pandemic (in May 2021), the government granted compensation to several other municipalities[75] – however, it still did not provide Budapest (or its districts) with any aid that would have reduced the effect of the crisis and reduction in municipal resources.[76]

This was exacerbated by the fact that the government negotiated neither with the representative bodies of the municipalities nor with the capital about the planned use of the EU's Recovery and Resilience Facility[77] [78] (Balázs Fürjes, Secretary of State for the Development of Budapest and the Metropolitan Area, denied this lack of consultation).[79] Furthermore, none of the projects proposed by the capital

74 These towns are Dunaújváros, Eger, Érd, Hódmezővásárhely, Miskolc, Pécs, Salgótarján, Szeged, Szombathely, Tatabánya and Budapest.

75 https://kormany.hu/dokumentumtar/huszonotezer-fo-feletti-telepulesek-tamogatasa

76 https://telex.hu/belfold/2021/05/06/iparuzesi-ado-kompenzacio-karacsony-kritika

77 https://telex.hu/belfold/2021/02/10/nem-egyeztetett-a-kormany-az-onkormanyzatokkal-az-eu-s-helyreallitasi-alap-elosztasarol

78 https://hang.hu/belfold/2021/03/13/karacsony-gergely-tovabbra-is-konzultaciot-szorgalmaz-a-helyreallitasi-alap-forrasainak-felhasznalasarol/

79 https://hang.hu/belfold/2021/03/13/furjes-balazs-nem-igaz-a-vad-hogy-a-kormany-nem-targyal-erdemben-a-fovarossal/

were supported by the government.[80] In connection with the rejection of these proposals, government decision-makers claimed that they did not meet certain standards and were not sufficiently detailed, which was later challenged by the mayor of Budapest, who then decided to publish the city's proposals.[81]

The almost explicitly political distribution of government aid to municipalities seen in December 2020 became less pronounced in the spring of 2021. Some municipalities led by Fidesz politicians did not receive any aid to compensate for the shortfall in business tax revenues, while opposition-led Szeged (whose total budget decreased compared to 2020) received a higher amount of aid compared to what had previously been calculated. Opposition-led Pécs received the second highest amount of aid, but it still faces a loss of incomes. Debrecen, which is led by a pro-government mayor, received the highest amount of government aid.[82]

To understand the full context, it should be highlighted that in December 2020 (when the system clearly favoured the pro-government mayors), the municipalities received financial assistance that had not been earmarked for any specific purpose, while in the second round, they had to indicate what the money would be used for. Furthermore, municipalities led by pro-government mayors received additional aid in the second phase of compensation, following the assistance disbursed in December 2020, whereas opposition-led cities were left empty-handed during the first round.

Abuse of influence

The town council of Eger, exercising its right under the law, sought to appoint the director of the city theatre, but the mayor refused, and the Ministry of Human Resources announced that it would only support the theatre financially if the candidate favoured by the governing party were selected – as a result, the council was forced to give in to this political pressure. Similar events took place in the case of theatres in Szombathely and Pécs: here, too, the ministry appointed the director of the theatre against the wishes of the local government, in practice through blackmail, thereby seriously violating the autonomy of local government and weakening public confidence.

80 https://telex.hu/belfold/2021/05/20/kiss-ambrus-kihuztak-az-unios-finanszirozasi-listarol-a-garancsi-villamost

81 https://nepszava.hu/3120808_karacsony-nem-tudom-hogy-letezik-e-ezer-oldalas-sms

82 https://hvg.hu/gazdasag/20210510_onkormanyzatok_tartalekok_koltsegvetes_varosok

The example of Göd

Via a decree, the government enabled the creation of so-called “special commercial zones” in certain municipalities, also by decree. On the same day, and in the decree bearing the next consecutive number, the government designated the Samsung factory and its surroundings in the city of Göd to be just such a zone. Furthermore, the government redirected about one-third of the city’s revenues, namely those from the local industry tax, to the Pest County administration, citing the need to mitigate the negative economic impact of the coronavirus pandemic and to create jobs.

In February, the Constitutional Court ruled that this case was not expropriation without compensation, but “merely” the delegation of powers and revenues relating to the area in question to a different local authority, and that the decree thus neither infringes the rights of Göd nor violates the constitution.[83]

The effects on the municipality are plainly and exclusively negative, and the government decree constitutes an unprecedented and severe intervention in its self-government. Due to the state of emergency, local citizens and the municipal authorities had only very limited options to raise objections against these measures (they could not organise a demonstration, given the general ban on public assembly, while the municipal council was not able to exercise its full arsenal of political tools since its operation was suspended and all of its authority was exercised by the mayor). It is also a sign of the lack of transparency of the decision-making process that the government decree failed to provide any specific, substantial reasoning that would clarify why these measures were necessary in the first place.

The government used the same model again in June 2021, this time in the case of the city of Dunaújváros, which had a contract with two nearby municipalities under which it received 50% of the local industry taxes paid by the Hankook factory in Rácalmás and the industrial park in Iváncsa.[84] In this case, the creation of a special commercial zone means that these revenues will instead go to the Fidesz-led Fejér County. The opposition parties unanimously protested against the plan,[85] but the government nevertheless insisted on establishing the special commercial zone.[86]

83https://alkotmanybirosag.hu/dontes/ab-hatarozat-alkotmanyjogi-panasz-elutasitasarol-es-alkotmanyos-kovetelmeny-megallapitasarol

84 https://telex.hu/gazdasag/2021/05/17/rajar-a-rud-dunaujvarosra-egy-titkos-terv-alapjan-milliardos-forrast-vonnanak-el-az-ellenzeki-varostol

85 https://telex.hu/belfold/2021/05/18/pinter-tamas-kallo-gergely-jobbik-dunaujvaros-ivancsa

The fact that apart from the two industrial zones connected to opposition-led local governments, no other special commercial zone has been designated to date also suggests that the measure was politically motivated, given that many industrial parks and plants of great significance can be found throughout the country.

5. Chronological list of key acts of legislation

Government Decree 40/2020 (III. 11) on the declaration of state of emergency

Government Resolution 1099/2020 (III. 12) on the measures necessary for the implementation of certain tourism developments

Act XII of 2020 on the containment of coronaviru

Government Decree 48/2020 (III. 19) on the measures to be taken during the state of emergency to prevent pandemics causing mass infection and a threat to the safety of life and property, and to avert the consequences in order to protect the health and the life of Hungarian citizens

Government Decree 87/2020 (IV. 5) on the exceptional rules regarding the payment of parking fees, applicable during the state of emergency

Government Decree 92/2020 (IV. 6) on the exceptional rules regarding the 2020 central budget of Hungary in connection with the state of emergency

Government Decree 108/2020 (IV. 14) on the pandemic-related special tax to be paid by credit institutions aimed to support the Epidemiological Fund in order to execute the Economic Protection Action Plan

Government Decree 109/2020 (IV.14) on the retail tax for replenishing the Epidemiological Fund in order to implement the Economic Protection Action Plan

Government Decree 135/2020 (IV. 17) on the necessary measures to be taken for the stability of the national economy in relation to the state of danger

Government Decree 179/2020 (V. 4) on differing from certain provision on data protection and data request during the state of danger

86 Gov. Decree 362/2021. (VI. 28.)
https://magyarkozlony.hu/dokumentumok/fdfa0e6b7cc2903c028f8aa1c95564da149d1334/megtekintes

Act No. XXIX of 2020 on the development, implementation and financing of the Hungarian part of the investment regarding the Budapest-Belgrade railway line's renovation

Act No. LVII of 2020 on the termination of the state of emergency – the parliament also accepted the proposal that upholds several measures introduced during the state of emergency; and on 18 June 2020, the state of "pandemic preparedness" was introduced.

Government Decree 407/2020 (VIII. 30) on the temporary reintroduction of border controls

Government Decree 478/2020. (XI. 3.) on the proclamation of the state of danger

Government Decree 484/2020 (XI. 10) on additional protective measures to be applied in the state of danger

The ninth amendment to the Fundamental Law (constitution) of Hungary

Act CLXVII regarding the amendment of certain election laws

Government Decree 535/2020 (XII. 1) on the local tax measures necessary to mitigate the impact of the coronavirus pandemic on the national economy

Government Decree 603/2020 (XII. 18) on the economic measures necessary to mitigate the impact of the coronavirus pandemic on the national economy

Acts connected to the outsourcing of public services to foundations:

- Act on the Foundation for the University of Szeged and the asset transfer to the Foundation for the University of Szeged and to the University of Szeged
- Act on the asset transfer to the Universitas Quinqueecclesiensis Foundation and to the University of Pécs
- Act on the transfer of the managerial rights of the Károly Eszterházy University to the Archdiocese of Eger and the regarding asset transfer
- Act on the Hungarian Dance Academy and the asset transfer to the Foundation for the Hungarian Dance Academy and to the Hungarian Dance Academy

- Act on the Foundation for the University of Dunaújváros and the asset transfer to the Foundation for the University of Dunaújváros and to the University of Dunaújváros
- Act on the Foundation for the Rudolf Kálmán University of Óbuda and the asset transfer to the Foundation for the Rudolf Kálmán University of Óbuda and to the University of Óbuda
- Act on the Foundation for the University of Nyíregyháza and the asset transfer to the Foundation for the University of Nyíregyháza and to the University of Nyíregyháza
- Act on the Foundation for the Count István Tisza University of Debrecen and the asset transfer to the Foundation for the Count István Tisza University of Debrecen and to the University of Debrecen
- Act on the Foundation for the University of Physical Education and the asset transfer to the Foundation for the University of Physical Education and to the University of Physical Education
- Act on the National Foundation for Health and Mental Education and the asset transfer to the National Foundation for Health and Mental Education and to the Semmelweis University
- Act on the Foundation for the University of Tokaj-Hegyalja and the asset transfer to the Foundation for the University of Tokaj-Hegyalja and to the University of Tokaj-Hegyalja
- Act on the regulation of higher education and the amendment of relevant laws
- Act on the Hauszmann Foundation and the asset transfer to the Hauszmann Foundation
- Act on the Makovecz Campus Foundation, the asset transfer to the Makovecz Campus Foundation and the transfer of state-owned real estate free of charge
- Act on the establishment of the MOL – New Europe Foundation and the asset transfer to it
- Act on the Future Generation Land Foundation, the asset transfer to the Future Generation Land Foundation and the amendment of some relevant laws
- Act on the establishment of the Foundation for Hungarian Culture and the asset transfer to the Foundation for Hungarian Culture and to the Petőfi Literary Agency Nonprofit Limited Liability Company

6. Methodological appendix

Our reports are drafted on the basis of a uniform methodology, centred around a current topic. Each report examines certain predetermined criteria, while always also responding to the latest events, as our aim is to provide the most comprehensive analysis possible. In the interest of continuity, we have prepared six positive statements, organised into two separate but related groups, the enforcement of which we examine in every report while evaluating each relevant government measure accordingly. These statements are the following:

Corruption and abuse of power

1. The government must not use public funds to strengthen or maintain its political power.

2. The government must not use public assets in such a way that this puts autonomous organs (e.g., local governments) in a disadvantageous position based on their political affiliation or encroaches on their autonomy.

3. The government must not provide public funds to politically loyal economic actors solely because of they're connection to the ruling party.

Rule of law

4. The government must operate transparently and inform citizens of its decisions and the justifications behind them in such a way that allows for the control of power.

5. The government must refrain from any behaviour that diminishes the existing level of independence of local governments and independent state organisations or undermines the guarantees of their independence.

6. Apart from the government's general obligation in this regard, it must especially refrain from undermining the guarantees of the rule of law and the responsible management of public funds in the name of crisis management.

Furthermore, to properly evaluate these multifaceted measures, the report will be read and commented upon by renowned experts from different fields.