

Corruption monitoring

Fourth report



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During the third, most severe wave of the pandemic there were the same trends to be seen that characterised the previous periods of the pandemic: outsourcing of a wide range of public assets and public service tasks into public trust funds, ongoing transfer of public assets into the hands of persons and circles close to the government; along with the lack of transparency and inconsistency in the government's communication connected to the pandemic throughout most of the analysed period.

Our fourth report reviews the time period between March 2021 and June 2021.¹ We will show that

- At the beginning of the most severe wave of the new type of coronavirus so far, serious legal uncertainty was caused by the way of publishing restricting rules; there had been several anomalies noticed around the publishing of laws determining citizens' lives fundamentally;
- The access to public interest data connected to the pandemic, as well as the press' work is still being obstructed by legal and administrative tools;
- The government still does not consider the local governments as real partners, compensating their withdrawn and missing revenues selectively (the main sufferer of this praxis of the analysed period is the capital, Budapest). Furthermore, the government has extended the so-called "method of Göd": the opposition-led town Dunaújváros - because of the special commercial zone established here recently - has lost a significant part of its revenues, which has been channeled to the pro-government-led municipalities at county level;
- In the meantime, regulation on public trust funds fulfilling public service tasks had been codified: thereby creating the possibility for the boards of trustees of the mentioned funds to supervise properties of several thousands of billions HUF or to executing important public service tasks without any substantive control or accountability;
- Into such public trust funds have been outsourced nearly the entire higher education sector, as well as many public tasks and sources which the present governing party intends to keep under their control - irrespective of the outcome of the elections in 2022 - thus the scope of an incoming government has been restricted significantly, as a high number of the foundation-leading trustees are politicians of the governing party;
- Several thousands of billions HUF of public assets have been allocated to these funds, free of

¹ The report also includes those events that - even if connected to the analysed period - occurred between the analysed period and the date of the report's publication.

charge;

- The line of events related to the Hungarian campus of the Chinese university Fudan is also noteworthy: the negotiators from the government side made misstatements² to the parties concerned about the location and size of the campus - the Municipality of Budapest was only informed by the draft law about the fact that the Fudan university, financed by Chinese loans, would practically occupy the area of the Students' town-project. However - due to the protests - the government announced that no decisions will be made about the project until the elections in 2022. The act has not been modified: the area indicated in the act's text will be granted for free to the public trust fund supervising the Fudan project.

On the whole it could be seen that the government has created its own "deep state" more and more notably: while more and more functions have been withdrawn from the decentralised, elected and autonomous organisations, e.g. local governments and universities, in parallel, it was also noticed that a number of similar competencies, functions and related sources, all withdrawn from the mentioned organisations - presumably not irrespective of the elections in 2022 - have not been centralised, but inversely, they have been outsourced outside of the public finance recently. On the contrary: a network of informal, personal connections closer than ever ensures the power of FIDESZ in increasingly new areas. These connections, networks of contacts and relations of dependency lack legal transparency and control.

In September 2020, K-Monitor and the HCLU launched a joint corruption monitoring program with the goal of evaluating the status of state corruption and the efforts made towards the dismantling of the rule of law in a report published every three months. In Hungary, the dismantlement of the constitutional state and the elevation of corruption to public policy happens simultaneously, in strong correlation with one another, generally under the guise of some mission carried out for the public good. Currently this is the action happening against the backdrop of the crisis caused by the coronavirus. The aim of K-Monitor and HCLU is, by combining their experiences from their own area of expertise, to shed light on the corrupt processes taking place under the surface of crisis management. In order to obtain a credible evaluation of these multifaceted measures, renowned experts from different fields will occasionally comment on the report, and these evaluations will also be published in the analysis.

The reports are drafted on the basis of a uniform methodology. The first report examines the events of the first phase of the coronavirus pandemic, primarily assessing the results of the special legal order

² <https://telex.hu/belfold/2021/05/12/nem-ugy-nez-ki-hogy-a-fudan-a-diakvaros-sarkaba-szorulna>

legislation. Our second report followed from the beginning of the second wave of the pandemic how besides protection against the pandemic, and steps taken in reference to that, the political and economic preparation for the 2022 parliamentary elections became more pronounced.

In our reports, we study previously set criteria repeatedly, reacting to the major current events as well. In the interest of permanence, we have composed the six positive statements, organized into two separate but related groups, the enforcement of which we will examine in every report and evaluating each measure in question based on these requirements. The statements - which are indicated by number beside each analysed measure and phenomenon according to which requirement the given measure or occurrence violates - are the following.

The topic of corruption and abuse of power

- 1 The government must not use public funds to strengthen or maintain their own power.
- 2 The government may not have public assets at their disposal in such a way that puts a group of the political community (e.g., local governments) in a disadvantageous position based on political commitment or creates a disadvantage for autonomous organizations with the aim of encroaching on their autonomy.
- 3 The government may not provide publicly funded resources to (economic) role-players sympathizing with them based solely on this trait.

The topic of the rule of law

- 4 The state is obligated to operate transparently, to inform the citizens about its decisions and the reasons behind them in a way which enables them (i.e., the citizens) to control the public authority.
- 5 The government is obligated to refrain from all behavior that diminishes the existing level of independence in regards to local governments and independent state organizations or undermines the guarantees of this independence.
- 6 The government is obliged to refrain from undermining the guarantees of the rule of law and the requirement of responsible public fund management, especially on the grounds of crisis management purposes.

1 Measures taken to decrease transparency and to obstruct actions against corruption

Sequence number of the criteria concerned: 4, 5

a Exclusion of press from hospitals treating patients infected with coronavirus, as well as deficiencies at the press conferences of the Operational Staff

As several editorial offices asked for permission several times in vain to report from the medical institutions where patients infected with coronavirus were being treated, twenty-eight editorial offices asked the decision makers in an open letter to stop this praxis.³ On the day when the open letter was published, Zoltán Kovács, government spokesman replied to the initiative, that *“Hospitals are places of healing instead of (film)shooting. The Operational Staff informs the public on a daily base. Despite that, the left-wing portals are spreading fake news and discrediting the Hungarian healthcare. Hungarian hospitals, their doctors and nurses are doing an excellent job performing heroic work.”*⁴ Later on, the press have not been entitled to report from the vaccination spots, according to the related provisions made by the Nation Hospital Directorate.⁵

Exclusion of the press from healthcare institutions is a practice that is unusual in Europe⁶: it’s enough to remember that the press was allowed to report from the hospital of Bergamo, Lombardy, which was badly hit by the first wave of the pandemic⁷; but reports were also made in towns with a Hungarian majority

³ <https://www.valaszonline.hu/2021/03/31/koronavirus-orban-viktor-nyilt-level-media/>

⁴ https://hvg.hu/itthon/20210331_kovacs_zoltan_egeszsegugy_operativ_torzs_koronavirus_jarvany

⁵ <https://telex.hu/koronavirus/2021/04/04/media-sajto-tudositas-jarvany-oltopontok-tiltas-kozmedia>

⁶ <https://hu.euronews.com/2021/03/31/hiaba-a-nyilt-level-fuggetlen-ujsgirok-nem-mehetnek-be-a-magyar-korhazakba>

⁷ <https://www.independent.co.uk/news/world/europe/coronavirus-italy-footage-video-hospital-bergamo-covid-19-a9414136.html>

outside of Hungary⁸(Dunajská Streda, Slovakia, and Odorheiu Secuiesc, Romania⁹). With this step, the government further strengthened its effort to present the facts and information relating to the pandemic situation from its own perspective exclusively and to control the flow of information. This became especially obvious when, after the publication of the above open letter, photographers of the Hungarian state news agency (MTI) and MTVA, a Hungarian fund company owned and financed by the Hungarian state were allowed to enter healthcare institutions.¹⁰ The press is in an especially hard situation when reporting about the coronavirus pandemic because healthcare workers in general are not allowed to give interviews.¹¹

The information practice of the main body of centralised information, the Operational Staff is still questionable¹²: there have been press conferences where no journalists' questions were read at all.¹³

All in all, the centralisation, deficiencies and controversies of information by the state, together with the obstruction of the work of the press¹⁴ may lead to a situation where citizens do not receive sufficient quantity and quality of information about the pandemic and its management. An investigation by *Átlátszó* also explored the fact that the website where Hungarian epidemiological data are published is the least informative of such websites regionally, a factor that also hinders information being available to the population.

b Dysfunctions of Parliamentary Scrutiny

Similarly to previous periods under review, the operation of the Welfare Committee of the Parliament was obstructed in the period of this report. In the 9 meetings during this period, the committee had a quorum

⁸ <https://telex.hu/koronavirus/2021/02/24/koronavirus-felvidek-szlovakia-dunaszerdahely-korhaz-riport-covid-dokumentumfilm>

⁹ https://hang.hu/kulfold/hataron_tul/2020/12/04/bejutottunk-egy-jarvanykorhazba/

¹⁰ <https://telex.hu/koronavirus/2021/04/03/magyarorszag-korhaz-koronavirus-intenziv-osztaly>

¹¹ <https://24.hu/belfold/2021/03/17/koronavirus-oltasi-rendszer-mok/>

¹² <https://444.hu/2021/04/09/csucsra-ert-az-operativ-torzs-tajekoztatasa>

¹³ <https://telex.hu/koronavirus/2021/04/01/operativ-torzs-tajekoztato-ujsgairoi-kerdes>

¹⁴ <https://tasz.hu/cikkek/annak-ellenere-hogy-semmire-sem-valaszol-mindig-perelni-akar>

in only 4, it did not have a quorum in 4 cases, and ¹⁵in one case it lost the quorum.¹⁶ As a consequence of this latter case, Minister of the Interior Sándor Pintér could not be heard (which happened for the second time that year), as representatives of the governing party walked out of the room. The reason for this was that they wanted a different chair of the meeting instead of committee chair Lajos Korózs, which the Rules of Parliament do not allow. Representatives of the governing parties had already been obstructing the work of the committee through the person of Lajos Korózs since the first wave of the pandemic on the grounds that the representative had published a recording the content of which later proved to be untrue.

c Abuses related to epidemiological restrictions (concerns about the promulgation of legislation, contradictory government communications, unjustified restrictions of fundamental rights)

At the beginning of the period analysed, at the start of the third wave of the pandemic, the government decided to take significant epidemiological restriction measures, announced on 4 March 2021.

Promulgation of the legislation imposing restrictive measures¹⁷ was dysfunctional: the standards fundamentally influencing the lives of citizens were not published for a long time after the government's announcement. This all happened despite the fact that the regulations were due to take effect in the days after they were announced (the announcement on Thursday morning were followed by entry into force on Monday, and in certain cases, Tuesday), which resulted in a short period to prepare. The website of the Hungarian Official Gazette ("Magyar Közlöny") became inaccessible.¹⁸ However, according to MP Ákos Hadházy, the text of the regulation imposing the restrictions (or a document with a wording mostly corresponding to the text that later entered into force) had already been available on the website of a car parts seller before being published in the Hungarian Official Gazette, the only guarantee of the authenticity of legislation.¹⁹ The government refuted this information, claiming that it was fake news;

¹⁵ <https://www.parlament.hu/web/nepjoleti-bizottsag/a-bizottsag-ulesei>

¹⁶ https://hvg.hu/itthon/20210513_Kivonult_Fidesz_Pinter_Sandor_meghallgatas_Nepjoleti_bizottsag

¹⁷ <https://magyarkozlony.hu/dokumentumok/49938f217e712ce35fbd9be13af1113f65703127/megtekintes>

¹⁸ <https://hang.hu/belfold/2021/03/05/mindenki-a-korlatozasi-szabalyok-reszleteit-varja-de-a-magyar-kozlony-oldala-szinte-elherhetlen/>

¹⁹ https://nepszava.hu/3112143_egy-autoalkatresz-bolt-honlapjan-volt-eloszor-olvashato-a-delutani-

however, as a result of the comparison carried out by KecsUP.hu, it became obvious that the leaked text and the one that entered into force were fundamentally identical, with only stylistic differences.²⁰

Besides abuses relating to the promulgation of regulations, contradictions in the government's communication²¹ also prevented²² citizens from being able to efficiently align their behaviour with the measures. There was a case when contradictory government communication ended by a government statement criticising the press, claiming certain facts published to be fake news. After a press product published the suggestion of the National Center for Public Health to take regionally different epidemiological measures, this was considered fake news spread "with the assistance from the left-wing press" according to Minister Gergely Gulyás.

They started to lift the epidemiological restrictions in the middle of the analysed period in several stages corresponding to the number of people who received the first dose of vaccine.^{23 24} It was an improvement with regard to legal certainty that the government communicated in advance the general outline of the regulations lifting the restrictions, as well as the conditions of their entering into force (the number of people receiving the vaccine). This eased the preparation of the citizens for the new situation. However, the publicity of the data the decisions were based on was still restricted. It's enough to think of the "guide" the prime minister used in public television that showed the number of vaccines coming into the

kormanyrendelet

²⁰ <https://kecsup.hu/2021/03/orakkal-a-megjelenes-elott-a-kecsup-nal-volt-a-kormanyrendelet-valamilyen-verzioja/>

²¹ <https://telex.hu/belfold/2021/03/05/maruzsa-digitalis-oktatast-jelent-be-a-kormany-rendkivuli-iskolai-szunetrol-posztol>

²² <https://444.hu/2021/03/05/az-operativ-torzs-eloszor-lefujta-a-hetvegi-tomeges-oltast-aztan-torolte-az-errol-szolo-szoveget>

²³ <https://magyarkozlony.hu/dokumentumok/52aec38538ababeef179760ec07afd24f2c8757e/megtekintes> for more details, see below. The Government Decree No. 144/2021. (III. 27.) on the first stage of the gradual lifting of the defensive measures

²⁴ <https://kormany.hu/hirek/a-kormanyzati-tajekoztatasi-kozpont-kozlemenye-2021-04-05>

<https://kormany.hu/hirek/az-ujrainditas-lepesei-4-millio-beoltottnal-2>

<https://kormany.hu/hirek/uj-szabalyok-jonnek-5-millio-beoltott-utan>

country in a periodical breakdown, but the content of the document was not published anywhere.²⁵

The gradual lifting of restrictions eased the attendance at commercial, recreational, cultural and sport events. Furthermore, education requiring personal attendance returned in some educational institutes. Moreover, first the time periods of mandatory curfew were modified, then the whole measure was lifted while it was still mandatory to wear a mask outside.

Beside the significant unwinding, it was still not allowed, or significantly restricted to exercise some political fundamental rights in the analysed period:

- it is still not possible to hold interim elections, and no referendums may be initiated either²⁶,
- furthermore, until 14 June 2021 the freedom of assembly was significantly limited with provisions that are unusual regarding the general way in which fundamental rights are usually restricted.²⁷²⁸
- municipal councils and general assemblies may not be called to a meeting in the analysed period, their scope of authority may be exercised by the mayor, the lord mayor and the president of the general assembly as per the act on disaster relief, which prescribes this as a mandatory rule during the state of emergency.²⁹

Due to the above the situation emerged that from the activities requiring forming groups and increasing number of contacts some are allowed by the regulation (strangely those that do not mean the exercising of fundamental rights), while some are still prohibited by the restricting provisions.

A measure that seems especially unjustified and does not seem to serve the epidemiological defence is to upkeep the effect of the Government Decree enabling the manager of public interest data to significantly

²⁵ <https://444.hu/2021/04/01/ott-a-kisokos-orban-kezeben-megsem-hozza-nyilvanossagra>

²⁶ <https://net.jogtar.hu/jogszabaly?docid=a2100001.tv> Section 4 (3)-(5)

²⁷ <https://hang.hu/belfold/2021/05/21/kijottek-a-reszletes-szabalyok-a-spontan-gyules-tilos-lesz/>

²⁸ The respective provisions of the Government Decree No. 264/2021. (V. 21.) on the amendment of the Government Decrees regulating the defensive measures to be applied during the state of emergency with regard to the fifth stage of the gradual lifting of the defensive measures

²⁹ <https://net.jogtar.hu/jogszabaly?docid=a1100128.tv> Section 46 (4)

increase the deadline for releasing the data, which decree we already analysed in earlier reports (see the next section)³⁰.

Finally, it shall be noted that the restrictive measures may be upheld due to the prolongation of the effect of the Government Decrees rendered in the state of emergency, which was enabled by the proposal of the government submitted on 20 April 2021³¹ and accepted by vote on 18 May that amended Act I of 2021 on protection against the coronavirus. According to this the Government Decrees rendered in the course of the state of emergency will remain in effect at least until the fifteenth day following the first day of session of the 2021 autumn session of Parliament - unless the government decides differently.³²

d Rule of the Constitutional Court on the release of public interest data

The Constitutional Court (CC) reviewed the Government Decree, which enables the data managers to answer the data requests in a significantly longer time than as generally prescribed by the law, this time upon its merits (in contrast to its decision in spring 2020 following the declaration of the state of emergency)³³. The CC assessed that it is not sufficient to generally refer to the circumstance that the fulfilment of the data request would endanger the functioning of the given organisation during the state of emergency, it shall be precisely indicated how this would affect the functioning of the data manager, i.e. the CC prescribed a constitutional requirement.³⁴

The decision verifies that the Government Decree rendered during the state of emergency included the possibility of arbitrary usage during the fulfilment of data requests.

The practice continued in the analysed period that the data managers released the epidemiologically relevant data, which loses its actuality quickly, even months after submitting the data request - making

³⁰ <https://net.jogtar.hu/jogszabaly?docid=A2000521.KOR&dbnum=1>

³¹ <https://www.parlament.hu/irom41/15997/15997.pdf>

³² <https://net.jogtar.hu/jogszabaly?docid=a2100001.tv> Section 4/A and 5/A

³³ <https://net.jogtar.hu/jogszabaly?docid=A2000521.KOR&dbnum=1>

³⁴ https://www.alkotmanybirosag.hu/uploads/2021/04/sz_iv_100_2021.pdf

use of the possibility ensured by the decree rendered during the state of emergency.³⁵ Similar to the limitation of fundamental rights, the government did not deem it necessary to restore the normal course of proceedings in this area.

e Anomalies regarding the publishing of epidemiological figures

It was also characteristic of the analysed period that the government's communication showed the epidemiological figures selectively, or, in some cases, misleadingly.

- The government did not proactively release one of the most important pieces of data, the number of citizens deceased from the coronavirus per settlement (such data was only released with respect to Budapest, but the data outside Budapest was even then not broken down farther than the level of counties). K-Monitor received this data on the level of settlements due to a request of public interest data³⁶, which includes the number of people deceased due to the pandemic until 4 March 2021³⁷ at the level of settlements³⁸. The data manager applied also in this case the maximal deadline of 90 days ensured by the decree rendered in the state of emergency for releasing data, and they released the data in the form of a scanned, unsearchable document.
- Although it is clearly information of public interest, we were solely able to receive information on the quantity of the used vaccines per type from a data submission originating from an international obligation, and not from information provided proactively by the government.³⁹
- The interview with the prime minister concluded by public media is an example for misleading release of data: the head of government stated on 28 May that the number of people treated in hospital due to the coronavirus was under a thousand. However, the real number was 1120 people, since the head of government deducted from the communicated number those who were

³⁵ <https://444.hu/2021/03/24/a-korhazi-adatokat-sem-adjak-ki-ket-het-utan-ujabb-masfel-honapot-kertek>

³⁶ <https://www.facebook.com/Kmonitor/posts/4308007482553422>

³⁷ https://docs.google.com/spreadsheets/d/1ConGRVdv8jocW8G1lhpLqbDVnYwibjP1xhQJ5qiP_Ew/edit

³⁸ <https://telex.hu/koronavirus/2021/05/28/k-monitor-koronavirus-jarvany-aldozat-telepules-szintu-lebontas-adatok-kozerdeku-adatigenyles-marcius-4-ig>

³⁹ <https://telex.hu/koronavirus/2021/03/08/koronavirus-melyik-vakcinabol-mennyit-adtak-be-es-mennyi-van-raktaron>

on a ventilator. This separation eludes logic, since the people on ventilators are inevitably treated in hospital.⁴⁰

- It is not directly linked with epidemiological data, but it shall be noted that in the analysed period an unusual phenomenon became public that the Central Statistical Office modified post factum the data on deceased people in the several months preceding the analysed period (post factum the number of deceased people increased by several hundred in the statistics).⁴¹ It came to light later that the Operational Staff could have amended the practice regarding the registration of data on mortality following the second wave of the pandemic.⁴² This in itself is of course not a problem, but it is rather objectionable that no public statement was issued in this regard, which decreases transparency.

2. Oddities around the budget

Sequence number of the criteria concerned: 4

The period between March and June has brought another amendment of the budget. The main reason for this is that the Hungarian government, when passing the 2021 Budget Law in spring 2020, was expecting the coronavirus crisis to be over much earlier, and the start of an economic conjuncture by the end of 2020. It should be noted that according to some analysts, it is risky to pass into law next year's budget in the spring even without the circumstances caused by the coronavirus crisis.

The Hungarian economy was hit hard by the second and third wave of the pandemic as well. Therefore the government was forced to amend the 2021 budget in May 2021, for example by raising the deficit target from 2,9% to 7,5% of GDP. Overspends have reached a level that even the Hungarian National Bank has voiced its concerns. The proposed new law has not cleared the lack of transparency around the budget: it did not include tables, nor numeric, derived justifications, nor any serious macroeconomic

⁴⁰ <https://telex.hu/koronavirus/2021/05/28/korhazi-apoltak-szama-koronavirus-covid-orban-viktor>

⁴¹ <https://www.szabadeuropa.hu/a/visszamenoleg-is-szazaval-jelennek-meg-uj-halottak-a-statisztikaban/31155526.html>

⁴² <https://g7.hu/adat/20210629/mindenkit-megteveszthetett-a-koronavirus-halalozasi-adatokkal-az-operativ-torzsz/>

forecast.

Even though the EU, due to the coronavirus pandemic, has allowed member states to plan a higher deficit target than required by the Maastricht Treaty, a 7,5% target is inconsistent not only with the convergence criteria, but with the government's own Act on the Economic Stability of Hungary. This was pointed out by the Hungarian Fiscal Council. As we have presented in our previous analysis, the increased room for manoeuvre was not really used by the government for reducing the unfavourable socio-economic effects of the pandemic. Instead, the funds created for this purpose were used to support the further investments of clientele, or spent on other purposes, for example churches or sports.

It will also continue like this in the future, as the amendment's largest part is just increasing the budget of the Economy Protection (or by its new name, Economy Restarting) Action Plan from 2550 billion to 6172 billion. From this amount, as we have already seen in 2020, the government can reallocate sums to different purposes without the consent of parliament. (Being before the elections, they will most likely use this opportunity.)

The budget proposed for 2022, submitted in May 2021, theoretically plans a smaller deficit. However, it introduces an Investment Fund, which, with its 550 billion HUF amount, can also serve clientele-building purposes - and, according to the plans, this Fund remains part of the budget in the following years as well.

Processes about plans regarding the Recovery and Resilience Facility of the European Union also signify risk of corruption. The public discussion of the plans were happening during the first months of 2021, however, the published documents were hardly sufficient for the public to learn the government's plans with the EU fund of 5800 billion HUF. This would have been the amount arriving into Hungary according to the original idea, of which a smaller part, around 2500 billion HUF would have been a grant, while a further 3300 billion HUF would have been a loan with favourable interest terms. Based on the previously published documents, the government was counting on using the full amount, so the Restarting Action Plan was published in line with this on 16th April, with a deadline to submit feedback by 30th April. However, on 23rd April minister Gergely Gulyás announced, after a meeting between prime minister Viktor Orbán and president of the European Commission, Ursula von der Leyen, that Hungary will only take the 2500 billion HUF grant. Indeed, on 11th May the government has only submitted a draft to the Commission about the modified amount, therefore the consultation about the previous plan has become in essence unworkable.

According to some sources, the reason for the rejection of the loan could be, that the government thought

they would get the EU funds with less cost and more quickly in this way, while not having to count on the concerns of the Commission - as by some reports, the Commission probably had concerns about the reorganization of the Hungarian higher educational institutions to public trust funds. (See more about this in the next chapter.)

Concentration of capital and the outsourcing of the public assets

Sequence number of the criteria concerned: 1, 4, 5

a Public assets reorganized to public trust funds

In the last few months, the most shocking legal and political development was the new legislation regulating the public trust funds, and related to this, the reorganization of the higher education institutions. The process had been started much earlier - one can think of the reorganization of the University of Theatre and Film Arts, that happened without any consultation, and that was followed by a wave of protests, or of the ninth modification of the constitution in December 2020, that has created the constitutional base for this rather ambiguous way of privatization of public assets, the outsourcing of public assets. The bill stipulates that the establishment, operation and termination of public trust funds performing a public task as well as the performance of such public tasks by the public trust fund shall be regulated in a cardinal law (i.e., acts of Parliament requiring a two-third majority).

As we have presented in our previous corruption monitoring reports, the government has typically named such public trust funds as the body responsible for the privatized higher education institutions, as well as their assets. Outside the sphere of higher education, it was typical already last year, that the Hungarian state has moved the funds closer to the larger governing party, FIDESZ, allotting significant assets to them. Moreover, further public trust funds were created, which have gained significant assets despite the fact that it was not known, what actual, public function they will have.

By the end of April 2021, so in a matter of months, almost all the higher education institutions were assigned to public trust funds. Only 6 institutions (the Budapest University of Technology and Economics, the University of Public Service of Hungary, the Eötvös Loránd University, the Liszt Ferenc Academy of Music, the Hungarian University of Fine Arts and the Eötvös József College of Baja)

remained under the government as the responsible body. As opposed to the reorganization of the University of Theatre and Film Arts, in this case there were some informal consultations between the minister and the institutions prior to the changes - but in these, reportedly, the arguments for the reorganization were presented as ultimatums. The arguments were, for example, that in case of the change lighter public procurement rules would apply, or the sources of the EU Recovery Fund would be more accessible.

As a result, and in opposition to previous practice, most of the leadership boards of the universities and colleges, with much less surrounding protest, have themselves applied to be registered under public trust funds. The codification of the regulation of the public trust funds took place in April as well, that is, the pro-government two-thirds of parliament has created the law behind the institution.

The most worrying from a corruption monitoring perspective is, that while the state is delegating significant assets and public service tasks - like higher education and patient care in case of university clinics - to trust funds, its instruments to enforce the fulfilment of public service tasks will be formally very limited. The board of trustees at the trust funds handling substantive assets cannot be called to account, the members of the board cannot be substituted. Basically, the state can renounce its founding rights in the governing document and assign them to the board of trustees.

After assigning the first board of trustees, the members cannot be removed by the government, even if the board is not or not properly performing the assigned public service task, or the transferred assets are mishandled.

It is especially distressing due to the lack of rules in the law on conflicts of interest for the board of trustees. As a consequence, it is not surprising that active politicians of FIDESZ and senior management representatives of the government reportedly got places on the boards of the new trust funds, founded in the spring and summer of 2021. According to some reports, around 40-50% of the trustees are connected to FIDESZ or the government directly, while a further 20% are persons connected more distantly to the government. This exposes the falsity of the statement of the government, claiming that the reorganization is necessary in order to guarantee the universities autonomy, and the independence of the higher education institutions from government. Independence and autonomy could only be present from a potential later, different government, as the strong personal connections guarantee the current government's influence.

In addition to the above, the KEKVA Act does not guarantee the autonomy and independence of

institutions from the government beyond personal mergers, not least because most institutions do not acquire assets outside the buildings used for education during the planned transfers of assets that would generate significant sums of money from which it could carry out its public task - which in the future would be arranged by the government on the basis of longterm agreements - i.e., funding would continue to be subject to consultations with the government.⁴³ The only exceptions to this are only the few beneficiary higher education institutions (mainly Mathias Corvinus Collegium, Corvinus University and Semmelweis University) that have acquired significant stakes in higher value state-owned companies.

In addition to the academic sphere, it is also worth mentioning those public interest foundations that perform additional public tasks, which do not really seem to have a meaningful purpose other than to reduce government transparency or to ensure that the goals preferred by governing parties are met in these institutions in the event of a change of government, while providing ongoing funding.⁴⁴

Among the most recently established foundations, it is worth highlighting the Foundation for Hungarian Culture, for example: it is likely that a very significant part of Hungarian cultural support will be channelled into this foundation, as the Petőfi Literary Agency, MANK Magyar Alkotóművészeti Közhasznú Nonprofit Kft. Talent Care Nonprofit Ltd. The Foundation will also receive significant real estate to finance its goals - these assets can essentially be decided forever by prominent ones now appointed by the government. The situation is similar with the Land of the Next Generation Foundation (Jövő Nemzedék Földje Alapítvány), that has received the National Stud Farm, which is the oldest state farm in the whole of Europe. The activities of the “state-independent” Central-European Built Heritage Preservation Foundation, established last year - which is chaired by a board of trustees composed of the heads of the Ministry of Foreign Affairs, only revealed following newspaper articles, showed that their main activities consisted of the purchase of cross-border real estate, in addition to which the Ministry of Foreign Affairs itself provides a separate budgetary resource.⁴⁵

Unfortunately, at this point in time, it is not possible to estimate the exact value of the real estate and company shares that the government has thus made available to these pseudo-state KEKVAs free of

⁴³ <https://telex.hu/belfold/2021/02/22/palkovics-finansziroz-as-struktura-felsooktatas-magyarorszag>

⁴⁴ https://hvg.hu/itthon/20210427_alapitvanyok_szavazas_orzaggyules_egyetemek

⁴⁵ <https://atlatszo.hu/2021/05/20/ket-allami-ceggel-negy-draga-kulfoldi-ingatlant-adott-egy-alapitvanynak-a-kormany>

charge.

In addition to KEKVA, many church institutions have recently acquired significant real estate: these free asset transfers also took place without consultation with potential stakeholders or without serious reasoning: in addition to the church-maintained Károly Esterházy University in Eger, for example, The Csillebérc Children's Camp became the property of the foundation, for the acquisition of which the state had previously sued for years.⁴⁶ The asset transfer is also in line with the tendency of the state to outsource more and more social and educational tasks to the church and church organizations, while often in the governing bodies of these church foundations we find actors such as former human rights activist Zoltán Balog, former Minister of Human Resources. This is a concern not only because it may violate the principle of ideological neutrality, but also because these church-run foundations are essentially entirely funded by central budget or EU funds (i.e., public money) and perform public functions - yet they are not subject to such strict transparency requirements nor can their leaders be held accountable as if the state were performing its duties within a state organization.

The plan related to the Hungarian campus of the Chinese university Fudan, has shed new light on the government's policy concerning higher education. The first news appeared in 2018 saying that the Hungarian government would bring the campus of one of the largest Chinese universities, Fudan to Hungary in the frame of a large-scale investment in the field of higher education.⁴⁷

The plan raises several serious problems: as for our analysis, the main risk is that it is difficult to have an overview about how the investment would precisely serve Hungarian 's interests: whereas the estimated cost of the construction is about 540 billion HUF, according to the relating ministry's proposal, this would be financed by Chinese loans, performed with Chinese materials and with the contribution of Chinese companies.

Moreover, the campus' location has been decided in a process, where the affected local governments (Municipality of Budapest and the local government of Ferencváros (9th district)) have been told untruths during the preliminary negotiations⁴⁸ – this means that the Fudan project could endanger an other

In 2016, the Foundation has also gained ownership of the Children Camp of Zánka under dubious circumstances.

⁴⁷ <https://444.hu/2018/10/30/orban-viktor-egy-kinai-egyetem-mukodesere-rabolintott-a-ceu-meg-mindig-var>

⁴⁸ <https://www.valaszonline.hu/2021/06/07/fudan-rozsdaovezet-budapest-vizpart-nagyvasartelep-kinai-befolyas->

project with possibly higher social benefits, i.e. Student City, which would offer affordable housing and public spaces to students studying in Budapest.

Risks of corruption are being raised by the fact that the government estimated the costs of the construction at over 50 percent higher than the Chinese partner itself.⁴⁹ Intentions of the government are also indicated by its proposal on a draft law about the Fudan University, its managing organ KEKVA (public trust foundation) as well as about free asset transfers, initiated on the 11th May, 2021. Apparently irrespective of this plan's overall rejection and the protests against it, the government's present position is to postpone the decision about Fudan University until the elections 2022.

The establishment of a new, independent regulatory body, the Supervisory Authority of Regulated Activities, empowered - within its scope of duties - to issue decrees is connected to the process of outsourcing of state; this new body will take over tasks even from the Ministry of Justice and the Ministry of Finance as well. From the second half of 2021, this authority will supervise the tobacco trade, the gambling market, as well as the law enforcement and liquidator sector. Additionally, the performing of the concession authority's tasks will be transferred to this authority ; and beside that, the Concession Council will operate within it as well. The president of the newly established authority will be appointed by the prime minister for nine years during the summer of 2021, which strongly implies that the reason behind the establishment of the authority – as it possibly could have been in the case of the KEKVA-s too – was to narrow the room for manoeuvre of the future government (possibly different from the current one).⁵⁰ A further suspected reason might have been to develop an informal pressure network consisting of FIDESZ, the head of government and the persons close to him, a kind of deep state.⁵¹

b Further concentration of capital close to power

While in certain sectors the government's intention is to outsource public-service tasks from the state even at the cost of giving up public assets, strong will is shown to replace foreign investors with "national" ones, more particularly, pro-NER businessmen in case of certain profitable or strategic sectors

diakvaros/

⁴⁹ <https://telex.hu/belfold/2021/04/06/kinai-egyetem-budapest-fudan-finanszirozas>

⁵⁰ <https://24.hu/belfold/2021/04/06/schiffer-andras-magyarorszag-kiszervezese-velemen-y-orban-viktor/>

⁵¹ <https://www.valaszonline.hu/2021/04/14/vagyonkezelo-alapitvany-privatizacio-melyallam-publicisztika/>

and companies.

Two related cases received a lot of attention recently. We have already written⁵² in our second report that the government prevented Budapest Airport in an unorthodox way from obtaining a loan from EBRD in order to put the owners in a tight spot, who, while generally profiting, obviously got into a worse financial situation due to the coronavirus pandemic. Back then, sources from the sector suggested that the prime minister personally would impel an acquisition by a group led by Dániel Jellinek and connected to other pro-government businessmen - in May 2021, László Palkovics, the minister for Innovation and Technology sent a message to the foreign owners in the press that the Hungarian state would like to regain control rights, moreover, he was officially appointed government commissioner responsible for preparing for the acquisition of the majority state ownership of Budapest Airport Zrt. from the 1st of June.⁵³

The Hungarian state intervention in the sale of Aegon Insurance Company was a similarly worrying and unusual step.⁵⁴ The Dutch owner of Aegon began negotiations for the sale of the Hungarian and Central European sector in 2020, which resulted in an agreement with Vienna Insurance Group last November. The announcement of the transaction was however preceded by a regulatory amendment by just one day, through which the government authorized the Interior Minister to prevent this type of acquisition - on the grounds that companies with a weakening performance due to the coronavirus pandemic could be forcibly acquired by a capital-intensive investor.⁵⁵

The Interior Minister indeed vetoed the deal in April despite the fact that in this case, there was obviously no sign of the negative effects of the pandemic, moreover both parties concerned are from the European Union and in fact, through the Union Insurance Company, Vienna Insurance Group itself has been present on the Hungarian market for decades - according to analysts, the background may be that the government wants to make sure that the insurance company valued at more than two hundred billion forints is in

⁵² https://tasz.hu/a/img/Korrupciofigyelo_masodik_jelentes.pdf

⁵³ https://nepszava.hu/3121264_hivatalos-palkovics-targyal-a-ferihegyi-repter-uzemeltetesenek-visszaszerzeserol

⁵⁴ <https://www.portfolio.hu/uzlet/20210407/vetozott-a-magyar-allam-nem-engedelyezi-az-aegon-eladasat-a-becsi-vig-nek-477384>

⁵⁵ <https://telex.hu/gazdasag/2021/04/30/aegon-eladas-most-mindenki-arrol-otletel-hogy-milyen-nemzeti-bajnok-biztosito-kell-a-hazanak>

Hungarian and pro-government hands if possible.

We have also noticed tendencies of centralisation in public funding: in our previous assessment we have already reported on a huge tender related to hospital cleaning, and also about a tender issued by the Directorate-General for Public Procurement and Supply (KEF), worth 45 billion forints, which would have restricted the market of public procurement consultants. The latter tender was criticised by the Ministry itself as well, which resulted in the tenderer withdrawing it - , based on which the press has reported a number of cases over the past three months that show that business actors affiliated with the major governing party and the government elite are enriched by public procurement and various state or EU tenders. For example, in the municipality of Sándor Kovács, county representative of Szabolcs-Szatmár-Bereg county, one company has won 13 different municipality public fundings in recent years – in most cases as the only candidate –, which is led by a close friend of Sándor Kovács, also a former business partner of his wife. Due to this (and to EU funds having been spent on the representative's land), the public prosecutor's office has started an investigation.⁵⁶

What is even more telling – as is now known due to the investigative journalism of Direkt36 – is that Viktor Orbán's personal acquaintances and family members are the biggest winners of the state credit scheme. For example, it came to light that the Hungarian Development Bank practically fully funded the procurement of Hotel Gellért for Dániel Jellinek in 2019, who was in a business partnership with the prime minister's son-in-law, István Tiborcz. It has also come to light that among the winners of the credit scheme launched by the central bank in the autumn – aimed to alleviate the negative impacts of the coronavirus pandemic, thanks to its favourable interest rates – we can also find the scope of interest of István Tiborcz and his business partners.⁵⁷

After roughly a year, we can also see that the infamous, expensive and – regarding its scale – unnecessary⁵⁸ ventilator procurements from last year mainly benefited the lobby group related to the international chief advisor of Viktor Orbán – the same group that benefited from the Sinopharm vaccine procurements through intermediary companies. According to the summary of valasz.hu, companies

⁵⁶ <https://telex.hu/belfold/2021/05/04/mar-a-masodik-nyomozas-indul-kovacs-sandor-fideszes-kepviselo-kreativ-kozpenzfelhasznalasi-modszerei-miatt>

⁵⁷ <https://www.direkt36.hu/tiborcz-es-kore-az-mfb-hitelprogramjanak-egyik-nagy-nyertese/>

⁵⁸ <https://g7.hu/kozelet/20210323/vegkepp-bebizonyosodott-hogy-kidobott-penz-a-lelegeztetogepekre-koltott-300-milliard-forint/>

related to the group were involved with procurements worth around 468 billion forints, which comes to about a quarter of the total expenses related to the pandemic. Despite this, a year after the procurement of the ventilators we still don't know what happened exactly, and where the procured ventilators are.

The pandemic still hasn't had a negative impact on the most well-known businesspeople close to the government; they continued to expand their business empires: Opus Holding, related to Lőrinc Mészáros, continued to increase its share in the energy market by acquiring the entirety of TIGÁZ. According to press information, they might also acquire half of E.ON Tiszántúli Áramhálózati Zrt.⁵⁹ Meanwhile, according to press reports, the wealth connected to NER is increasingly less transparent: the number of private equity funds grew to 60 during the pandemic, out of which 43 are handled by the top elite of NER, according to a report by *Heti Válasz*.⁶⁰ The actual beneficiaries of these private equity funds – meaning the people who possess the shares of investments – is kept secret by law.⁶¹

4. Decisions disproportionately affecting opposition-led municipalities

Sequence numbers of the criteria concerned: 2, 3, 4, 5, 6.

a Decisions that selectively support local governments

In our previous report, we showed⁶² that the government had selectively compensated for the significant deductions suffered by local governments, and had come up with a promise to municipalities that their situation would be reviewed on an individual basis and that any further compensation would be decided accordingly.

⁵⁹ <https://telex.hu/gazdasag/2021/03/12/uj-elemek-a-meszaros-csalad-befekteteseiben-jonnek-a-draga-orokosok>

⁶⁰ <https://www.valaszonline.hu/2021/05/19/exkluziv-43-titkos-penzalapot-kezel-a-ner-felsoelitje/>

⁶¹ <https://www.valaszonline.hu/2021/05/19/exkluziv-43-titkos-penzalapot-kezel-a-ner-felsoelitje/>

⁶² <https://tasz.hu/cikkek/korrupciofigyelo-teljes-agazatok-kerulnek-a-kormany-klienturajanak-befolyasa-ala>

During the period under review, a decision was made to further compensate several municipalities⁶³ - it should be emphasized that Budapest (and its districts) were not provided with support to mitigate the effects of the crisis and withdrawals from government funds to compensate for the loss of municipal revenue⁶⁴.

This was exacerbated by the fact that the government did not negotiate with the local government associates and the capital city on the use of the European Union Recovery Fund⁶⁵⁶⁶ (the fact that negotiations with the capital were not taking place was refuted by Secretary of State Balázs Fürjes)⁶⁷ and that none of the projects proposed by the local government were accepted by the government.⁶⁸ Among the reasons for the refusal to support projects in the capital, the government decision-makers cited low professional quality and elaboration of the proposals, which was later refuted by the mayor with the publication of the project proposals.⁶⁹

At the same time, the almost entirely openly politically based selection experienced at the end of 2020 was less prominent in the area of compensations awarded in the examined period of 2021: several of the pro-government cities (e.g., Győr, Székesfehérvár) did not receive support to compensate for lost business tax revenues, while the opposition-led Szeged (although overall adopted a budget with a lower balance sheet total than last year), received a higher amount of compensation than previously calculated. Pécs, also run by the opposition, received the second highest amount of compensation, but its budget is still in

⁶³ <https://kormany.hu/dokumentumtar/huszonotezer-fo-feletti-telepulesek-tamogatasa>

⁶⁴ <https://telex.hu/belfold/2021/05/06/iparuzesi-ado-kompenzacio-karacsony-kritika>

⁶⁵ <https://telex.hu/belfold/2021/02/10/nem-egyeztetett-a-kormany-az-onkormanyzatokkal-az-eu-s-helyreallitasi-alap-elosztasarol>

⁶⁶ <https://hang.hu/belfold/2021/03/13/karacsony-gergely-tovabbra-is-konzultaciot-szorgalmaz-a-helyreallitasi-alap-forrasainak-felhasznalasarol/>

⁶⁷ <https://hang.hu/belfold/2021/03/13/furjes-balazs-nem-igaz-a-vad-hogy-a-kormany-nem-targyal-erdemben-a-fovarossal/>

⁶⁸ <https://telex.hu/belfold/2021/05/20/kiss-ambrus-kihuztak-az-unios-finanszirozasi-listarol-a-garanci-villamost>

⁶⁹ https://nepszava.hu/3120808_karacsony-nem-tudom-hogy-letezik-e-ezer-oldalas-sms

deficit. The largest budget was awarded to the pro-government-led Debrecen.⁷⁰

Part of the overall context of the case is also the fact that in December 2020, the pro-government led municipalities received unaddressed subsidies, while in this case municipalities had to indicate the purpose of their use, as well as the fact that several pro-government led municipalities were a second time beneficiaries after the 2020 subsidizations.

There are also examples of striking individual cases:

- Siófok, led by an independent mayor, received a lower amount of compensation because it has a population of⁷¹ more than a few dozen inhabitants than the 25,000 people required for the increased amount of support (which number including both persons with habitual place of abode and with residence is misleading in the case of Siófok as a holiday destination as the actual number of people habitually living there is lower than 25,000);
- along with the case of Eger, also run by an independent mayor, where the city received less compensation for the loss of revenue than one hotel in the city of Eger owned by Lőrinc Mészáros, a businessman close to the government.⁷²

b Proposed amendment to the law concerning municipal housing ownership

The pro-government bill⁷³, which would have resulted in a significant loss of property for local governments if adopted in its original form, attracted ample attention and provoked significant protest. According to this, the local governments would have been obliged to sell their rental apartments to their tenants who request it and their tenancy existed at least before 31 December 2020 for a significant discount (for 15-30% of the turnover value of the apartment).

⁷⁰ https://hvg.hu/gazdasag/20210510_onkormanyzatok_tartalekok_koltsegvetes_varosok

⁷¹ https://hvg.hu/gazdasag/20210309_Siofok_lakos_teljes_kompenzacio

⁷² <https://egriugyek.hu/eger-ugye/meszaros-lorinc-tobb-allami-penzt-kapott-az-egri-hoteluk-felujitasara-mint-az-egri-onkormanyzat-a-drasztikus-adoelvonasok-utan>

⁷³ <https://www.parlament.hu/irom41/16223/16223.pdf>

As a result of the amendment, the original proposal was significantly softened (as the pre-emption right was eventually limited to properties in the World Heritage Site)⁷⁴ while the opposition-led district I. and VI. (and to a lesser extent the pro-government-led District V local government) are still heavily affected by the proposal.

It is noteworthy that two of the three districts listed above are run by the opposition, as well as the fact that, according to information previously published in the press, many pro-government actors are renting apartments in the Castle District of District I. Some opinions have explicitly highlighted the possibility of their preferential acquisition of property⁷⁵, but according to the bill, they cannot acquire ownership.⁷⁶ Press reports later refuted this.⁷⁷

While the proposal was also openly contested by oppositional mayors⁷⁸, NGOs⁷⁹ and pro-government mayors⁸⁰, it was passed by Parliament on 15 June 2021. Subsequently, instead of signing the law, President János Áder initiated the norm control of the law at the Constitutional Court.⁸¹

c Plan for the establishment of another special economic zone in the Dunaújváros area

In mid-May, it became public that a regulation similar to Göd, creating a special economic zone, would

⁷⁴ <https://www.szabadeuropa.hu/a/csak-a-vilagoroksegi-teruleten-levo-berlakasokat-vehetik-meg-a-lakok/31274679.html>

⁷⁵ <https://24.hu/belfold/2021/05/12/budai-var-onkormanyzati-lakas-vasarlas-akcio-kedvezmeny-borocz-laszlo-fidesz-bayer-zsolt-rakay-philip-palkovics-laszlo/>

⁷⁶ https://hvg.hu/ingatlan/20210526_borocz_bayer_rakay_lakas_a_varban_berlakas_privatizacio

⁷⁷ https://hvg.hu/ingatlan/20210610_lakastorveny_modositasa_uj_valtozat_berlakas_privatizacio

⁷⁸ <https://24.hu/belfold/2021/05/12/piko-andras-onkormanyzati-lakasok-eladasa-katasztrofa/>

⁷⁹ https://nepszava.hu/3120917_lakastorveny-csak-a-visszavonas-eleg

⁸⁰ <https://merce.hu/2021/05/17/hiaba-a-polgarmesterek-tiltakozasa-borocz-nem-vonja-vissza-a-lakasprivatizacios-javaslatot/>

⁸¹ <https://www.szabadeuropa.hu/a/ader-berlakas-alkotmanybirosag-fidesz/31325911.html>

be prepared for the industrial facilities of Dunaújváros and its surroundings. The opposition leadership of Dunaújváros fears that the city would lose significant tax revenues as result: Iváncsa and Rácalmás have a contract with the city that 50 percent of the business tax paid by the Hankook factory in Rácalmás and the Iváncsa industrial park belongs to Dunaújváros.⁸² the creation of a special economic zone would result in tax revenues going to the pro-government-led Fejér County Local Government. Despite the opposition parties unanimously protesting against the decision⁸³, the government established a special economic zone for the Danube-side Fejér County in a decree.⁸⁴

⁸² <https://telex.hu/gazdasag/2021/05/17/rajar-a-rud-dunaujvarosra-egy-titkos-terv-alapjan-milliardos-forrast-vonnanak-el-az-ellenzeki-varostol>

⁸³ <https://telex.hu/belfold/2021/05/18/pinter-tamas-kallo-gergely-jobbik-dunaujvaros-ivanca>

⁸⁴ 362/2021. (VI. 28.) Government Decree on the designation of the Danube - Fejér County Special Economic Zone <https://magyarkozlony.hu/dokumentumok/fdfa0e6b7cc2903c028f8aa1c95564da149d1334/megtekintes>