

Second Corruption Monitoring Report

In September of 2020, K-Monitor and the HCLU launched a joint corruption monitoring program with the goal to evaluate in a report published every three months the status of state corruption and the efforts made towards the dismantling of the rule of law. In Hungary, the dismantling 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 against the crisis caused by the coronavirus. The aim of the two organizations, by combining their experiences from their own area of expertise, is to shed light on the corrupt processes taking place under the surface of crisis management. Furthermore, to obtain a credible evaluation of these multifaceted measures, renowned experts of 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, centered around a current topic: the first report examined the events of the first phase of the coronavirus pandemic, foremost assessing the results of the special legal order legislation. Our second report continues the analysis from the beginning of the second wave of the pandemic.

We also highlighted in our previous report that the government is using the crisis, linked to the pandemic caused by the new type of coronavirus, in every possible way to benefit its own political-economic circles. This has been an ongoing trend ever since September. Several decrees and measures quite obviously only make sense in the light of the 2022 elections. We can easily classify these into three main categories:

1. Measures focusing on the time left till the elections, with the purpose of
 - rendering the work of political opponents impossible (new measures affecting municipalities can be listed here);
 - ultimate control over public discourse and information (for example by holding back epidemiological data, by further restraining the freedom of information with the repeated extension of the response time, by the planned amendments to the Hungarian Constitution, further narrowing the definition of public funds and by making the work of the parliamentary welfare committee impossible);

- further strengthening the political clientele with public procurements, funds and other allowances.
2. Shaping the election process in a way which may benefit the governing parties and puts the opposition-led parties under extreme pressure. A sign showing this direction is the amendment of the electoral law, which in our view is likely to continue.
 3. Outsourcing state assets and certain state functions as a preparation for the post-election period in case they lose the two-thirds majority or the election. For example, by founding public benefit trust foundations, recapitalizing them with public funds and launching them under the leadership of members of the government and trustees close to the government. Meanwhile the institutions, by turning into private operators, are set free from democratic control-mechanisms. But those assumptions are not without foundation either, which suggest that the blocking of the loan application of Budapest Airport or the threatening of international food chains are in the long run all part of a post-2022 plan.

This period was also characterized by the numerous legislative problems in relation to disease control: government decrees, prescribing serious restrictions, concerning wide masses, were, on several occasions, only announced minutes or hours prior to their coming into force. At the same time, the government submitted extensive and complicated draft bills to the National Assembly, which suggests that their legislative capacities were invested in the wording of these bills, rather than in drafting decrees concerning disease control.

The reports recurrently examine predetermined criteria, but always react to the current, significant events as well; our aim is to give the most comprehensive analysis possible. In the interests of consistency, we have composed six positive statements, organized into two separate but closely 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 its own power.

- In connection to this, the most important progress is the strengthening of the public trust funds, creating a two-thirds legislation for them, especially in the light of the fact that in many cases, the Board of Trustees of these institutions partially consists of government members. It is related to the definition (and its narrowing down) of public funds in the Hungarian Constitution.
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 derogating their autonomy.
 - This period is still characterized by actual withdrawals from local governments or by suggestions of such measures, all, according to the government's narrative, justified as disease control. The transfer of the maintenance of Hungarian higher education institutions to foundations is derogating their autonomy. The same requirement is violated if they are arbitrarily supporting certain sectors (e.g., the lack of support to tourism workers in Budapest).
 3. The government may not provide publicly funded resources to (economic) role-players sympathizing with them based solely on this trait.
 - The most obvious example for this is the intensive support of public trust funds, the restructuring of the concessions scheme, as well as the increased pro-governmental presence in the cultural space.

The topic of the rule of law

4. The government is obligated to operate transparently, to inform the citizens of their decisions and the justifications behind them, making the audit of public authority possible.
 - Over the period under examination this requirement was primarily infringed in connection with epidemiological measures, disease control in general and the disclosure of related data (refusal to provide data, the extension of the response time).

5. The government is obligated to refrain from all behaviour that diminishes the existing level of independence with regard to local governments and independent state organizations or undermines the guarantees of this independence.
 - Stipulations against local governments not only meant a loss of income but in some cases a loss of jurisdiction (e.g., restrictions regarding tax legislation). But interfering with municipalities happened without withdrawal, as well (e.g., appointments of theatre directors). The transfer of the maintenance of Hungarian higher education institutions to foundations is derogating their autonomy.
6. Apart from the government's general obligation in this direction, they are especially obligated to refrain from undermining the guarantees of the rule of law and the responsible management of public funds by citing crisis management aims.
 - The undermining of the guarantees of the rule of law can be traced in connection with the adoption and the announcement of decrees of epidemiological measures - in many cases the government is not even providing the minimal preparation time and in the meantime the legislation procedure is still following the special legal order. The requirement of responsible management of public funds was primarily infringed in the course of the procurements of medical ventilators.

The timeframe of the report, summary

On August 30, 2020, in the Government Decree 408/2020. (VIII. 30.) the government made the decision to close Hungary's borders to non-Hungarian nationals. By that time, the number of new coronavirus cases for several days was considerably higher than in the previous weeks. In that period, which in this regard was much more relaxed, the daily number of registered new cases was around a few dozen: on August 28: 132; on 29: 158 and on 30: 292.¹ According to the reasoning, the main purpose of closing the border was to prevent coronavirus cases being imported into the country from abroad.²

¹ <https://atlo.team/koronamonitor/>

² https://www.napi.hu/magyar_gazdasag/koronavirus-magyarorszag-orban-viktor-bejelentes-hatarzar-intezkedesek.712508.html

The period under examination (August 30, 2020 - December 1, 2020)³ the most characteristic and central feature of this period is the extreme acceleration of the coronavirus pandemic (which was true for the whole of Europe), which resulted in such a high national infection and death rate that it cannot be in any way compared with that of the first wave. Characteristically, during the first wave of the pandemic the highest number of new cases per day was 210 (April 10, 2020), and the majority of these cases could be connected to one specific institution, the Pesti úti Elderly Care Home. However, during the second wave since the end of October, several thousand new cases a day became a common and permanent phenomenon and unfortunately, parallel to this the death rate has increased considerably as well. Doctors and epidemiologists stressed many times that one of the reasons why we cannot have a clear picture about the actual scale of the pandemic is that the positivity rate of the performed tests was permanently above the 5, maximum 12% proposed by the WHO.

Furthermore, experts also criticised the government because, according to their opinions, the epidemiological measures were implemented too late and too few and in a haphazard manner, and because in several cases comments of leading political figures were anti-scientific. For example, in the middle of September, so more than three weeks after the beginning of the second wave, the prime minister said in the National Assembly: "It's really just a matter of taste how much someone believes in doctors and mathematicians."⁴ At the beginning of October, Deputy Minister Balázs Orbán called the statements of Ferenc Jakab (doctor, member of the action group convened by the government in the spring) scaremongering. In his statement Ferenc Jakab warned about the alarming spread of the virus.⁵ Parallel to this, the government repeatedly refused to introduce more severe epidemiological restrictions, frequently citing the results of the national consultation about the epidemiological measures.⁶ To conclude, next to relativising and discrediting scientific standpoints they made the results of a survey the basis of

³ Although, in this report we are examining events that happened before December 1, we were monitoring - with regard to the date of publication - all the changes that affected these developments up until the date of publication.

⁴ <https://24.hu/belfold/2020/09/21/orban-viktor-parlament-koronavirus/>

⁵ <https://24.hu/belfold/2020/10/02/orban-balazs-koronavirus-jakab-ferenc/>

⁶ <https://koronavirus.gov.hu/cikkek/orban-viktor-magyarorszagnak-mukodnie-kell-0>

<https://magyarnarancs.hu/belpol/ov-interju-magyarorszag-eloben-133836>

<https://www.magyarhirlap.hu/belfold/20200911-gulyas>

their decisions, a survey which was often criticised because of its leading questions and which was conducted with the participation of laymen voters.

This period is also characterized by our previous findings, namely that the expression “protection against the pandemic” or “disease control” became a recurring, indiscriminately used reference applicable to justify even contradictory measures: while the political beneficiaries were afforded a constant stream of ordinary and extraordinary free benefits, investment support, grant money citing the necessity of saving the economy, the government’s real or imagined enemies were often stripped of investment resources and were called upon to show solidarity also justified by the pandemic. Sadly, “protection against the pandemic” also meant that it was unnecessary, in fact, almost rude to ask questions with the aim of auditing the government, and substantial answers were not to be expected in these cases.

The examined period can also be characterized by the mechanism, which has been going on for years, acting against the transparency of governmental decision-making, meaning that the preparation of decrees takes place with the exclusion of the public and without public consultation. During the legislative procedures the legislator kept neglecting the (substantive) public consultation: this was especially noticeable in connection with the new legal status of doctors (in this case the government subsequently provided a substantive correction for the lack of consultation), or when the law on the termination of the civil servant status of the employees of the Hungarian Academy of Science was introduced, but it received even more attention in connection with the amendments of the Electoral Law and the Fundamental Law. In these cases, public consultation would have been a legal requirement on the basis of the relevant law - the law describes several circumstances waiving the obligation of social consultation, but none of these applied here. Another noticeable characteristic of the examined period was that the most active legislation happened in connection with topics unrelated to epidemiological measures.

On November 4, 2020 a state of emergency was declared again⁷, and amongst the first measures they introduced were a night-curfew, made parking in all public places free of charge again and started to operate additional vehicles in certain services of public transport. A few days later on November 9, 2020 these were followed by strict epidemiological measures without parallel: among others the 8 p.m.-curfew, a governmental decree giving mayors the authorisation to locally regulate mask wearing rules and they introduced a ban on assembling and public gatherings, too.

In the period under our examination the biggest development in foreign politics - and of utmost importance both regarding the rule of law and corruption - was the Hungarian-Polish political veto of the European Union's next seven-year budget and the coronavirus recovery fund. The two government choose this way of protesting because they did not accept the so-called rule of law mechanism in its original form. According to which if the European Commission senses the infringement of the rule of law or the risk of it, it can initiate the mechanism. In order to do this, the European Commission has to pronounce that the rule of law was infringed in a member state and that it results or may result in the misuse of EU funds.⁸ The procedure can even end in the complete withdrawal of EU funds. The initial standpoint of the Hungarian government was that the requirement system of the rule of law is still blurry, not precise enough, and that all EU member states are equally eligible for funds based on their membership, thus this cannot be subject to additional conditions. Later on, the government supplemented its opinion with the belief that in the background of the rule of law mechanism there is an intention to facilitate immigration⁹, even the "gender-issue" was mentioned by the Prime Minister as a topic affected

⁷ Here we have to note that just from the introduction of the special legal order we cannot draw far reaching conclusions about the state of the rule of law or the corruption - the functioning of the state is rather qualified by the actual measures being imposed during the time of special legal order. As [this analysis](#) shows as well, Member States of the European Union introduced epidemiological measures that affected the fundamental rights differently. Not all the countries introduced a special legal order - the implementation of which hinges on the legal system of the given member state, but no direct correlation is detectable with the democratic functioning of the state. There is a great variety of actual measures, as well: e.g. while Hungary closed its borders, France left the Schengen borders open with mandatory test requirement; while in Hungary domestic travelling was not banned, in Italy, however, travelling between the regions was forbidden. There are different solutions when it comes to the geographical extension of the curfew restrictions, e.g. lockdown of city districts (Spain), dividing the country into zones of different level restrictions (Italy) and so on.

⁸ <https://telex.hu/kulfold/2020/11/16/varga-judit-europai-unio-koltsegvetes-jogallamisag-veto>

⁹

<https://merce.hu/2020/12/03/gulyas-a-jogallami-feltetelrendszer-csak-a-bevandozas-elfogadtatasanak-az-aneve/>

by the mechanism.¹⁰ The debate was finally closed with an agreement and the rule of law mechanism is going to be scrutinised by the Court of Justice of the European Union.¹¹

Detailed analysis

Government Decree 408/2020 (30 August) on travel restrictions during the period of state of pandemic preparedness – the second closure of borders and those exempt from the travel restrictions

Sequence number of the criteria concerned: 4, 6

The starting point of the second wave of the coronavirus pandemic was clearly marked by the surging number of new cases and the first extraordinary governmental measure on travel restrictions and border closure. According to official communication, the implementation of the restrictions were necessary to avoid the importation of the infection from abroad. However, there are two factors casting a shadow over this picture. For one, when the restriction was announced on August 29, it seemed that it was going to be an undifferentiated ban on incoming travel by foreign citizens, but in reality, there were a lot of exception rules, classifying representatives of several professions (e.g., hunters) and several destinations (e.g., participation at high priority, international sport, cultural or church events) as exceptions from the restrictions. Furthermore, it has attracted a lot of attention that travellers arriving from the Czech Republic, Poland or Slovakia, were allowed to enter Hungary, if possessing a negative coronavirus-test. It is hard to justify, why this possibility of entry based on a negative test was only granted to citizens of the aforementioned three countries, because if the entry was allowed to people certifiably not infected - regardless of their nationality - it would perfectly comply with the publicly communicated purpose of the restrictions.

¹⁰

<https://merce.hu/2020/11/26/orban-es-morawieczki-a-jogallami-feltetelek-visszavonasaig-nem-allnak-le-az-eu-zsarolasaval/>

¹¹

<https://telex.hu/kulfold/2020/12/11/europai-unio-megallapodas-eu-jogallamisagi-feltetel-orban-morawiecki-jourova>

An important criticism regarding the measures was that there was very little time between its announcement and its coming into force, so they only left very minimal preparation time for travellers and tour operators. In October, the Council of the European Union recommended to the member states that rather than introducing a complete border closure, the member states should draw up a more differentiated protection scheme, which is not so hard on the right of free movement¹². However, the Hungarian government did not alleviate the complete closure - but it is true that they were not legally obliged to do so, as it was only a recommendation of the Council.

Amendments to the legislation on doctors and employees of academic research institutes

Sequence number of the criteria concerned: 4, 6.

On October 6, 2020¹³ the National Assembly adopted the law on medical service. Besides envisaging a significant pay rise and criminalising gratuities (both goals defined by the Hungarian Medical Chamber), the law contained other measures unacceptable for the majority of the medical community. Such measures were for example: the significant restrictions on doctors seeking second employment, the enabling of the secondment (employment at a place other than the original workplace) of doctors for even one plus one years (not fine-tuned with further detailed rules). Above the aforementioned ones, the Hungarian Medical Chamber named several other unacceptable measures in their analysis about the legislation¹⁴, in which they stressed that as the legislation enters into force on January 1, it does not give them enough time to prepare, furthermore, in the course of the legislation process the lawmakers failed to consult with those whom it might concern. It further increased the weight of these concerns that the law was adopted under worsening epidemiological circumstances, when the (substantive) consultation with the medical community would have been required not only because it was a legal obligation, but because it contained aspects concerning the safety of providing medical

¹² <https://www.consilium.europa.eu/hu/press/press-releases/2020/10/13/covid-19-council-adopts-a-recommendation-to-coordinate-measures-affecting-free-movement/#>

¹³ <https://telex.hu/belfold/2020/10/14/orvosi-beremeles-torveny-egeszsegugyi-szolgalmati-jogviszony-ader-janos-alairas>

¹⁴ <https://mok.hu/hirek/mokhirek/a-mok-hivatalos-velemenye-az-egeszsegugyi-szolgalmati-jogviszony-torvenyrol>

care: the study conducted after the adoption of the legislation showed the same results, namely that two-thirds of the doctors would not sign a contract that falls under the terms of the new legislation.¹⁵ Presumably all the above and the wide professional protests lead to the fact that after the adoption of the legislation, the government started to negotiate with the Hungarian Medical Chamber with the mediation of Sándor Pintér, Minister of Interior¹⁶. As a result of the negotiations, they agreed on several debated issues regarding the legislation, e.g., they defined the detailed rules regarding the secondment of the doctors.¹⁷

At this point it is worth to note that Sándor Pintér as the Minister of Interior is not the minister responsible for healthcare. However, apart from the above-mentioned case he now has a formal role linked to the functioning of health care: in case of a state of emergency the National Hospital Directorate-General is led by the Minister of the Police appointed as head of the operational staff under the 517/2020. (XI. 25.) government decree.¹⁸

The draft legislation, completely depriving academic workers of their civil servant status, was created without any inclusion of those concerned, however the subsequent protest of the stakeholders has not been successful yet.¹⁹

¹⁵ <https://magyarnarancs.hu/belpol/mok-az-orvosok-ketharmada-nem-irna-ala-az-uj-jogviszonyat-134397>

¹⁶ <https://hang.hu/belfold/2020/10/13/pinter-sandorral-egyeztetett-az-orvosi-kamara-elnoke/>

¹⁷ <https://www.portfolio.hu/gazdasag/20201127/egeszseguqyi-atalakitas-fontos-levelet-kuldott-pinter-sandor-459314>

¹⁸ https://hvg.hu/itthon/20201125_Veszelyhelyzetben_Pinter_Sandor_a_korhazak_ura

¹⁹ https://hvg.hu/gazdasag/20201028_kozalkalmazotti_jogviszony_akademiai_dolgozok_ITM

The proposal about the business tax of the President of the Hungarian Chamber of Commerce and Industry and the ban on tax hikes for the municipalities (Government Decree 535/2020. [XII. 1.] on the local tax measures necessary to mitigate the impact of the coronavirus pandemic on the national economy)

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

On 8 November, 2020 László Parragh - whose good relationship with the government is well known -, the president of the Hungarian Chamber of Commerce and Industry made a proposal to redesign the business tax system concerning the local governments with regard to the economic recession caused by the coronavirus pandemic²⁰. According to the proposal, the business tax obligation would be suspended or completely annulled in 2021, but he even discussed the possibility of decreasing the corporate income tax to 5%.²¹ In an interview the response of László Parragh to the claim that the suspension of the business tax would result in a 60 percent income loss for the Metropolitan Government was: "Where is it written that there has to be five deputies next to the lord mayor? I know, that this sounds populist, but that does not make it any less true. The Metropolitan Government should exercise restraint, should start to function more economically and be able to cover their own operational costs."²² The rhetoric, according to which the lord mayor has too many deputies at his disposal, is²³ a long-standing element in the communication of the bigger governing party. Up until the completion of the manuscript, no legislation was formed based on the bill of László Parragh. This is presumably due to the fact that beside the objection of Gergely Karácsony, lord mayor²⁴, several

²⁰ <https://24.hu/belfold/2020/11/08/parragh-laszlo-iparuzesi-ado-felfuggesztes/>

²¹ https://hvg.hu/kkv/20201108_Parragh_Laszlo_elarulta_miol_targyalt_Orbannal

²² https://nepszava.hu/3098623_parragh-sporoljanak-karacsonyek

²³ <https://hirtv.hu/ahirtvhirei/ot-fopolgarmester-helyetttest-valasztott-meg-a-fovarosi-kozgyules-2489826>

²⁴ <https://444.hu/2020/11/10/karacsony-szerint-ha-atmenne-parragh-otlete-masnap-leallna-a-kozlekedes-budapesten>

pro-government mayors (mayors of Debrecen²⁵, Győr and Kecskemét) also protested against the bill.

The lord mayor even elaborated that around 80 percent of the operational costs of the public transportation system in the capital is financed from business tax revenues.²⁶ We should note here that in the light of the above-mentioned data and the government decree 479/2020. (XI. 3.), which entered in force on November 4 (obligating municipalities as operators of local public transportation to form plans to operate with additional frequencies), local governments were hard-hit by the proposal also because of its timing. In addition to this, following the decision of the government, funds that originally were destined to support the public transportation in 70 cities in 2021 were regrouped to the Epidemiological Fund.²⁷

Later on, László Parragh made a new proposal, which was reported in the press on 17 November: according to this proposition it would be necessary to suspend the business tax for the current year as well, besides that even the municipal tax should be frozen too.²⁸ This time there was harsh objection from the pro-government mayor of the city of Székesfehérvár, as well.²⁹ This proposition would technically leave local governments without any revenue, thus making it impossible for them to perform their duties. But the absence of independent income would also mean the complete emptying of local governments, their de facto eradication.

Although the measures, proposed by László Parragh, were not implemented, eventually, on December 1 the government issued a decree prohibiting local governments to impose taxes in 2021 higher than the 2020 rate or to impose new types of taxes. This is an especially sore subject for local governments, who planned on tax hikes or imposing new ones to be able to make up for shortfalls in revenue (e.g., parking fees) and to finance the extra costs incurred due to epidemiological protection.

²⁵ <https://kecsup.hu/2020/11/kecskem-et-polgarmestere-szerint-nem-felfuggeszteni-atalakitani-kellene-a-helyi-iparuzesi-adot/>

²⁶ <https://telex.hu/belfold/2020/11/10/karacsony-gergely-iparuzesi-ado-sajtotajekoztato>

²⁷ <https://merce.hu/2020/10/21/jovore-a-jarvanyugyi-alapba-megy-a-telepuleseknek-jarotomegkozlekedesre-szant-2-milliardos-tamogatas/>

²⁸ <https://444.hu/2020/11/17/parragh-laszlo-ket-evre-elengedne-az-iparuzesi-adot>

²⁹ https://hang.hu/belfold/2020/11/17/szekesfehervar-fideszes-polgarmestere-parraghnak-kerem-hagyjamar-beken-a-telepuleseket/?fbclid=IwAR0X_kFbKReYNLFGffiZJTJLP8oZwts55DnEea3dSjJcb03zggDU22ZVeE

According to the opinion of the Hungarian National Association of Municipalities, the decree fails to comply with the Stability Law, and the settlements have the opportunity to challenge the decree at the Constitutional Court.³⁰

The request of the Ministry of Innovation and Technology towards the mayors regarding the local transportation passes

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

On November 13, 2020 Tamás Schanda, State Secretary of the Ministry of Innovation and Technology, asked on his Facebook site³¹ the lord mayor and the mayors, to reimburse the price of the local public transport passes for November for those who demand it (the amount of reimbursement depends on the ratio of the period of time with curfew restriction and the validity of the pass). The state Secretary justified this request with the fact that they already ordered the reimbursement for the interurban passenger transport passes. The reimbursement would have been a sore spot for the predominantly metropolitan municipalities operating local public transport because the revenues arising from this important public service were able to minimally mitigate the shortage of resources, which is a result of foregone or declining revenues linked to free parking and epidemiological measures, and that of the increasing expenses.

³⁰ <https://hang.hu/gazdasag/2020/12/03/alkotmanybirosaghoz-fordulhatnak-az-onkormanyzatok-az-adoemelesi-tilalom-miatt/>

³¹ <https://www.facebook.com/schandatamasjanos/posts/803421070224018>

The discriminative governmental intention to grant support linked to help the tourism sector; the measure of the Ministry of Innovation and Technology relating to taxi drivers, and their communication criticising the city management of Budapest in this relation

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

In our last report we gave an account of how businessmen, close to the government, proved to be particularly successful in winning tourism aid tenders, and received several tens of billions to improve their lodgings outside Budapest. Taking this into consideration it is quite interesting to note that on September 12, 2020 the Prime Minister was discussing on public TV: at the capital's disposal there is around 100 billion Forints worth of funds³², which should be allocated to support taxi drivers, tourism and hospitality workers (the prelude to this was the similar proposition of the pro-governmental fraction of the Metropolitan Assembly). The lord mayor denied to have such resources at the capital's disposal and was even talking about a budget deficit in the capital.

News, which is connected to the above-mentioned events and was published simultaneously, is that representatives of the professional group in Budapest were not allowed to enter the tender for aiding tour guides, despite their numerical superiority.³³

There is a detectable substantive link between the statement of the Prime Minister and the Ministry of Innovation and Technology's measures regarding taxi drivers and their proposal. Vehicles, used in taxi service, must be replaced every ten years. The Ministry of Innovation and Technology introduced an alleviation in this regard: taxi drivers do not have to replace their vehicles, above the age limit, till the end of 2022. Tamás Schanda, the state secretary of the Ministry of Innovation and Technology commented on the measures: "This alleviation means some help primarily to entrepreneurs and their families in Budapest, who have been left alone

³² <https://www.szabadeuropa.hu/a/30836222.html>

³³ <https://24.hu/belfold/2020/09/11/koronavirus-idegenvezetok-segitseg/>

by the city management, but naturally, the governmental decision applies to taxi drivers working in any other parts of the country, as well.”

As seen above, the government targets its political communication against the capital, as well as negatively discriminating against the tourism sector of the capital compared to that of other parts of the country.³⁴

The content and circumstances of declaration of governmental decrees 478/2020. (XI. 3.) and 479/2020. (XI. 3.) on additional protection measures to be applied in the state of emergency

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

On November 3, 2020 in the early evening hours the Prime Minister made a statement on his Facebook page about the government decisions regarding epidemiological protection. The set of measures consisted of four main parts: they reinstated the special legal order (state of emergency); in the framework of which they decided on the introduction of a curfew restriction from midnight to 5 a.m. (but based on the very few exceptions it is rather a ban); they made public parking free again in the entire territory of Hungary; and they obliged the public transport providers in Budapest and in towns with county rank to draw up plans for the increasing frequency of peak hours.

The restrictions came into force from November 4, 2020, except the curfew restrictions which were enforced one day later).

In spite of the fact that the decree mainly contained measures coming into force from November 4, they were only made public in the Hungarian Official Gazette at 23:57, thus obviously not giving even the minimal preparation time for those concerned, namely local governments and public transportation providers (the deadline was even shorter, because the schemes for the increasing frequencies was to be handed to the competent government office by November 5.) The decree allows a fine of several million Forints for failings concerning the schemes for the increasing of frequencies. Another issue was that the statement of the Prime Minister did not

³⁴ <https://24.hu/belfold/2020/10/22/itm-taxisok-budapest/>

elaborate on the fact that the curfew restrictions will only enter into force later, thus many, quite justifiably, interpreted the statement that it too enters into force at midnight.

What we wrote in our first report, in connection with the abolition of public parking fees, applies for any, substantially identical, new measure as well: the measure resulted in a considerable revenue loss for local governments³⁵, meanwhile in Budapest the paid-parking has completely lost its traffic-control function of.³⁶

The Metropolitan Government Office declared³⁷ that according to their opinion the Centre for Budapest Transport, (Budapesti Közlekedési Központ (BKK)) did not operate additional frequencies. The BKK accepted the statement with incomprehension and stated that they mobilized every deployable vehicle and vehicle driver, furthermore, they initiated a face-to-face consultation with the government office.³⁸ Concerning other settlements no similar criticism is known.

Submission of proposals for the ninth amendment to the Fundamental Law and the amendment to the Electoral Law; in addition, correlations of the announcement circumstances of the Government Decree 484/2020. (XI. 10.) on the further protection measures to be applied in course of the state of emergency

Sequence numbers of the criteria concerned: 1, 4, 5, 6

Minister of Justice Dr. Judit Varga submitted bill T/13647 regarding the ninth Amendment to the Fundamental Law, in the late afternoon hours on November 10, 2020³⁹. Subsequently, during

³⁵ <https://telex.hu/koronavirus/2020/11/14/ingyenes-parkolas-magyarorszag-jarvany>

³⁶ https://hvg.hu/itthon/20201111_Atok_vagy_mentoov_az_ingyenes_parkolas

³⁷ <https://koronavirus.gov.hu/cikkek/kormanyhivatal-bkk-tovabbra-sem-hajtott-vegre-erdemi-jaratsuritest>

³⁸ <https://bkk.hu/hirek/2020/12/a-bkk-tovabbra-sem-erti-a-kormanyhivatal-kozlemanyet-az-elmaradt-jaratsuritesrol.6088/>

³⁹ <https://www.parlament.hu/irom41/13647/13647.pdf>

the night, the Deputy Prime Minister Dr. Zsolt Semjén submitted bill T/13679 regarding the amendment of certain election rules.⁴⁰

These bills showed no correlation with the pandemic management activities at all, not even indirectly. In both cases, the legally mandatory public discussion had not taken place, thus both were issued in an antidemocratic and non-transparent manner. The timing of submission - especially in the case of the proposal to amend election rules - clearly suggests bad faith by the government and it was incompatible with the standard rule of law.

The bill amending election rules was submitted at 23:59. On this day, the Government Decree 484/2020. (XI. 10.) on the second stage of the protection measures to be applied in course of the state of emergency due to the coronavirus pandemic was published in the Hungarian Official Gazette in the late evening hours (at 22:24), which ordered a blanket ban on assembly from midnight of the next day and a mandatory curfew from 20:00 to 05:00 in the entire territory of Hungary, hence the scope for protesting against legislative steps became very limited.

Both the bill regarding the amendment of the Fundamental law, as well as the bill regarding the amendment of election rules are extensive, moreover, the bill amending election rules is also extremely complex and diverse with regard to codification. These facts are significant, because on the day of submission of the bills and in the preceding period, there was a tendency for government decrees, regulating the containment of the pandemic, that most affected the everyday lives of citizens, to be published in the Hungarian Official Gazette only a few minutes before they came into force. All this suggests that these decrees were created just before being issued, as opposed to the bills to be debated by the Parliament - as it is unrealistic to assume that these two bills could have been made without lengthy and thorough codification work. Therefore, the government, prior to the submission of these bills, dedicated government resources to these purposes, among others, and not to timely drafting pandemic related emergency decrees, which would almost always affect the citizens.

The complexity and length of the codification work suggests that the bill to amend election rules has been drafted for quite some time. The bad faith procedure on the part of the legislator is also likely due to the fact that even on October 22, 2020. Gergely Gulyás stated to the press that “no major change [...] is planned in terms of electoral regulations”.⁴¹

⁴⁰ <https://www.parlament.hu/irom41/13679/13679.pdf>

⁴¹ https://hvg.hu/itthon/20201022_gulyas_gergely_kormanyinfo_valasztasi_torveny

In terms of content, the findings relevant to the subject of the report are as follows.

1. In addition to the ideological background (e.g., determining the gender of the mother and father, ensuring the “right of children to their identity in line with their sex by birth” and an upbringing in accordance with the values based on Christian culture) the amendment of the Fundamental Law also restructures the framework of special legal order and contains provisions specifically related to public assets.

Such is the definition of public funds (as proposed: “Public funds are the revenues, expenditures and receivables of the State.”). The person proposing the amendment presumably deemed it necessary to include this definition in the Fundamental Law due to case laws emerging in the preceding time - in particular, Article 28 of the Fundamental Law, according to which the courts interpret the text of the law, when applying the law, primarily in accordance with its purpose and the Fundamental Law. The amendment justifies giving a definition exactly by the need for an integrated interpretation of the definition (and thus by increasing transparency) - according to the reasoning “the definition is effective for all constitutional, state and local government bodies, state and local government institutions”. The text of the amendment suggests that the income, expenditure and receivables of public trust funds - affected by another article of the amendment to the Fundamental Law - would not fall under the concept of public funds in the future. The significance of this is not yet fully clear, given that, in accordance with the definition of public interest data defined by the relevant law, public trust funds continue to be considered data controllers. It is also questionable why the notion of public funds, which the bill approaches with a cash flow approach, has not been supplemented with a definition of public assets.

Another substantial point of the amendment is the provision specifically relevant for public trust funds. 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). According to the reasoning, this provision “affirms the independence of public trust funds performing a public task from the current government by binding its most basic rules to a cardinal law.” For related concerns, see under the title “Outsourcing of State Assets”.

2. Amending election rules raises numerous concerns⁴², however, before the final vote, a proposal was removed from the draft which would have most likely facilitated electoral frauds that allowed a photograph to be taken of ballot papers for “private purposes”. Nevertheless, several articles of concern remained part of the draft:

- The amendment significantly increases the number of individual candidates required to establish a national party list in parliamentary elections. It is noteworthy that the submitter justifies this amendment by taking action against sham parties - which would be welcomed both from a rule of law and an anti-corruption perspective. However, this method is much less capable for this purpose than the elimination of so-called multiple recommendations, as sham parties typically obtained recommendations by copying each other’s recommendation sheets. It should be noted that the original bill would have increased the number of individual candidates required for the listing from 27 to 50. However, the amendment motion of János Volner (previously: Mi Hazánk, currently leading the Volner Party) - which would require 71 candidates for the listing - was supported by government MPs. at the committee stage.⁴³
- In addition, the amendment validates postal votes which were invalid under the previous rules. An amendment different from the original motion, yet again, was adopted in the parliamentary vote. The ballot-package consists of an external, large envelope, which must contain an identification statement containing the voter's data, and a ballot paper in an internal, sealed envelope - this ensures the confidentiality of the vote. According to the first amendment motion, a vote by mail received without an inner envelope or with an unsealed inner envelope should also have been accepted. At the committee stage, however, a different amendment, also adopted by Parliament, was supported. According to the amendment proposal of the pro-government Zsigmond Barna, the sealed inner envelope would still be needed, however, the birth name should not be indicated on the identification statement. It should be noted that over 90% of the postal votes have always supported the Fidesz-KDNP list since the introduction of the

⁴² <https://tasz.hu/elemezunk-az-egy-es-valasztasi-targyu-torvenyek-modositasarol-szolo-t-13679-szamu-torvenyjavaslatrol>

⁴³ https://hvg.hu/itthon/20201127_Volner_Janos_valasztasi_torveny_modositas

legal institution⁴⁴, and the rate of invalid postal votes has always significantly exceeded the rate of invalid votes cast at polling stations.

- The amendment is stricter regarding the deadline for submitting a request to change the polling district (the ninth day instead of the fourth day before the vote).
- Finally, Parliament should have modified the boundaries of several individual parliamentary constituencies in Pest County, as their population had changed so much that their amendment would be mandatory by law. The pro-government majority in the committee stage first supported the relevant opposition-led motion (the basis of which was previously drafted by the National Elections Office), but in the end it was voted down by pro-government MPs in Parliament.⁴⁵

Outsourcing of state assets; in this context, events related to the University of Theatre and Film Arts

Sequence numbers of the criteria concerned: 1, 2, 3, 4, 5, 6.

In our previous report, it has already been mentioned that the Government has provided actors who can be classified as close to the government with free asset transfers several times, including the Tihany Foundation, which maintains the Mathias Corvinus Collegium, and the Central and Eastern European History and Society Foundation.

The Government seemed to take the outsourcing of state assets to various foundations to an even higher level from September till the end of November. These are sometimes difficult to explain, and the submission of the 9th amendment to the Fundamental Law puts it in an alarming perspective.⁴⁶

⁴⁴ https://mandiner.hu/cikk/20140410_megszamoltak_az_osszes_levelszavazatot_tarolt_a_fidesz

<https://444.hu/2018/04/14/a-levelszavazatok-96-szazalekat-kapta-a-fidesz>

https://index.hu/belfold/2019/05/30/a_fidesz_udvaraba_hullott_az_ep-levelszavazatok_zome/

⁴⁵ <https://telex.hu/belfold/2020/12/15/pest-megyei-valasztokeruletkek-modositasa-orzaggyulesi-valasztas-2022-parlament>

⁴⁶ <https://hvg.hu/360/hetilap360/2020/45/20204503fokusz1>

The transfer of public assets can be put into different categories: these include, first of all, restructuring the higher education system and using this framework for asset transfers, which includes either transferring state universities to private foundations, or already existing private foundations, that can be linked to the government or Fidesz politicians (such as MCC),⁴⁷ receiving exceptionally substantial assets to perform public duties associated with higher education. In addition, other foundations affiliated with people close to the government, or foundations serving other cultural purposes, also received unusually high-value free asset transfers.

With regard to the latter, it is worth mentioning that in recent months, in addition to the Matthias Corvinus Collegium, also the mysterious Lajos Batthyány Foundation,⁴⁸ founded by József Antall but recently connected to Árpád Habony and Antal Rogán, has gained valuable real estate, but the state itself is also active in establishing new public trust funds, the scope of which is often also not sufficiently detailed in the relevant legislation. The Central European Built Heritage Preservation Foundation⁴⁹ and, for example, the Millenaris Foundation and the Foundation for Civic Culture also gained significant assets over the course of the summer. This latter one has unprecedentedly wide responsibilities defined, such as “preserving cultural values, participating in the organization of cultural events, carrying out and promoting educational activities, contributing to the protection of built heritage, in particular the monumental heritage, supporting organizations, institutions and persons carrying out such activities”.

Among the currently pending bills, there are also many that serve the outsourcing of public assets: the Carpathian Basin People’s College of Arts Foundation would receive real estate, and the Central European Education Foundation would be established as a manager of a kind of elite boarding school.⁵⁰

The pending bills would reorganize state assets not only through public trust funds, but also in other ways. Several properties, including the castle in Esztergom itself, would become church

⁴⁷ <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/>

⁴⁸ Act No. CVI. of 2020 on certain trust funds and asset transfer to those.
http://njt.hu/cgi_bin/njt_doc.cgi?docid=222343_390603

⁴⁹ Act No. XCIII of 2020 on the Transfer of Assets to the Central European Built Heritage Preservation Foundation and to the Central European Built Heritage Preservation Foundation
<https://net.jogtar.hu/jogszabaly?docid=A2000093.TV&searchUrl=/gyorskereso>

⁵⁰ <https://www.parlament.hu/irom41/13660/13660.pdf>

property. Furthermore, a commercial company was also transferred to the Szeged-Csanádi Diocese⁵¹- Bishop László Kiss-Rigó, the diocese leader, has long been a supporter of the governing parties, and his diocese is a regular beneficiary of state subsidies.⁵²

As mentioned above, currently, another type of state asset reorganization is channelling public assets into public trust funds established in the framework of the higher education model change. The privatization of Corvinus University took place in 2019, followed by István Széchenyi University, University of Sopron, János Neumann University from Kecskemét, the University of Miskolc, the University of Veterinary Medicine and the Moholy-Nagy University of Arts during the first wave of the coronavirus pandemic this year, and then, as of July 3, the reorganization of the University of Theatre and Film Arts (SZFE).

In the case of SZFE, the lack of reorganization and related stakeholder involvement, as well as the breach of promises made by the government, were so conspicuous to university citizens that it led to widespread protests as well as a teacher strike.

On September 1 (the day when the reorganization into a form of fund took effect), the university students occupied the university's building in Vas Street (and later several other buildings as well) with the aim of not letting members of the board of trustees enter who they considered illegitimate. The students considered the board of trustees illegitimate because none of the Senate candidates, the most important body for university autonomy, were included. Furthermore, contrary to the Fundamental Law and by vacating university autonomy, the powers of the Senate were significantly curtailed in favour of the board of trustees of the conservator foundation.⁵³ In addition to this, the newly appointed vice-rectors are supporters of the model change, so the members of this group have not only appeared at a conservator level, but also in the leadership of the university.⁵⁴

The board of trustees appointed Chancellor Gábor Szarka in the meantime and the government then tried to make the protest impossible by a number of direct and indirect means.

⁵¹ https://hvg.hu/kkv/20201119_Milliardos_ceget_kap_a_SzegedCsanadi_Egyhazmegye_az_allamtol

⁵² <https://24.hu/belfold/2020/09/22/atadtak-kiss-rigo-puspoksegenek-a-30-milliardos-lakitelki-nepnemzeti-elmanykozpontot/>

⁵³ https://hvg.hu/kultura/20200829_vidnyanszky_attila_szinhez_es_filmmuveszeti_egyetem

⁵⁴ <https://444.hu/2020/09/30/vidnyanszky-bemutatta-az-szfe-uj-rektorhelyetteseit>

On October 16, the Chancellor ordered the evacuation of SZFE dormitories due to the coronavirus pandemic⁵⁵. The protesting students did not comply with this - we recall that no major anti-epidemic measures were in place during this period, in all education institutions attendance required education was provided (except in case of illnesses), and dormitories were available to students in all institutions. Previously, on the Chancellor's instructions, the internet was restricted (turned off in the evening) in the SZFE dormitory⁵⁶ - this move presumably served the purpose of making it more difficult for students to report their protests.

On October 30, the board of trustees of the conservator foundation published a letter on the university's website⁵⁷ ordering the suspension of education, based on the actual process of education not being transparent to them and that the university's "occupied facilities did not, or they only partially comply with the fire and safety regulations, hygiene is a concern, and there are regular breaches of alcohol and non-smoking rules in the buildings". The letter fails to indicate the source of the latter information and, if this information was available to the board of trustees, why they did not receive similarly detailed information on the educational activity; and why the above necessarily lead to the suspension of education. Despite the decision, education continued.

The decision was made on November 6 by the board of trustees, that educational activities were again to be suspended at SZFE, citing that "in the current circumstances, the conditions of education, the enforcement and protection of student rights, appropriate and safe working conditions, and the University's academic autonomy cannot be guaranteed".⁵⁸ It should be noted here that on November 27, the Commissioner for Education Rights issued a resolution stating that the board of trustees had illegally suspended education, for which there was no legal basis.⁵⁹

⁵⁵ <https://www.szabadeuropa.hu/a/szarka-gabor-kiuritteti-az-szfe-epuleteit-/30896641.html>

⁵⁶ https://hvg.hu/itthon/20201014_Szarka_Gabor_internet_SZFE_kollegium

⁵⁷ <https://szfe.hu/wp-content/uploads/2020/10/SZFAKuratorium20201030.pdf>

⁵⁸ https://nepszava.hu/3098363_felfuggeszti-az-oktatast-az-szfe-n-az-uj-vezetoseg

⁵⁹ <https://24.hu/kultura/2020/11/27/szfe-oktatasi-jogok-biztosa/>

On November 8, SZFE teachers were locked out of the Neptun education interface⁶⁰, which is used to announce and administer classes.

The physical occupation of the university came to an end when the government decree on strict disease-control measures entered into force on November 9, which, among other things, ordered the eviction of dormitories and transformed higher education into distance education.⁶¹

It should be noted that on November 19, the decision of the Court of Appeal reversed the decision of the Court of First Instance; the court found that the teachers' strike was lawful.⁶²

In a decree of November 25, the government authorized⁶³ the university conservators to invalidate the semester⁶⁴ for reasons of "public health, public safety, natural disaster or unavoidable situation directly threatening the order of the semester and the exercise of student rights during the state of emergency", which was carried out on November 28, once the decree came into force⁶⁵. In the cases of other higher education institutions, no such step has been taken, which (plus other circumstances, such as the wording of the decree, the timing of its creation) makes it probable that the decree was designed specifically to take revenge on SZFE protests. The protesting students later stated that, according to their information, the board of trustees had subsequently backed down, so that only the two-week period following the suspension of the semester would be invalid.⁶⁶

Currently, bills on the reorganization of Szent István University (renamed: Hungarian University of Agricultural and Life Sciences) and the University of Pannonia are at the legislator.⁶⁷ A

⁶⁰ <https://merce.hu/2020/11/08/kizartak-a-tanarokat-az-szfe-tanulmanyi-feluleterol-nem-tudnak-orakat-meghirdetni/>

⁶¹ <https://www.szabadeuropa.hu/a/veget-vet-a-jarvany-az-szfe-blokadjanak/30940353.html>

⁶² https://hvg.hu/elet/20201119_SZFE_sztrajkbizottsag_sajtotajekoztato

⁶³ <https://net.jogtar.hu/jogszabaly?docid=A2000522.KOR&dbnum=1>

⁶⁴ <https://444.hu/2020/11/26/az-egyetem-fenntartoja-donthet-ugy-hogy-ervenyteleniti-a-tanevet-rendkivuli-helyzet-eseten>

⁶⁵ <https://merce.hu/2020/11/28/a-szerdai-felsooktatasi-kormanyrendeletre-hivatkozva-ervenyteleniti-a-tanevet-az-szfe-kuratoriuma/>

⁶⁶ <https://444.hu/2020/12/14/ha-a-teljes-feleket-nem-tudja-legalabb-ket-hetet-ervenytelenitene-az-szfe-vezetese>

⁶⁷ Bills T/13675 and T/13676.

number of newly established board of trustees include candidates affiliated with the governing party, and the boards of trustees were given unusually broad control: on the one hand, with regard to founding rights; on the other, with regard to the maintenance of universities. The stated aim of the transformations was precisely to make the foundations independent from the current government, the state, but this can hardly be realised if, for example, the current Minister of Justice and the Minister of Foreign Affairs and Economic Affairs are members of the boards of trustees of such foundations.⁶⁸ In addition to them, many public figures who belong to the front line of the Fidesz hinterland, or even Fidesz politicians have been placed on the board of trustees of public trust funds, just think of Attila Vidnyánszky in the case of SZFE.

The above cases demonstrate well what makes the parts of the 9th Amendment to the Fundamental Law concerning national assets and public funds particularly problematic. By making the rules governing public trust funds cardinal law, the board positions, associated with the current major governing party, can be guaranteed essentially forever in the event of an election defeat, and there is no guarantee that those affected by such transformations will also be involved. The official reasoning for the relevant part of the bill, according to which the Parliament would through this regulation establish the independence of public foundations "from any current government", raises credibility issues, given that the boards of trustees were filled with potentates of the governing party, including members straight out of the government.

The other point in the bill precisely introduces a restrictive interpretation of public funds. This would essentially eliminate the constitutional requirement of transparent management and public accountability for a number of organizations, which indirectly receive budgetary support or national assets - it is enough to think of the transferred business tax funds or the foundations of the Hungarian National Bank.⁶⁹

⁶⁸ Judit Varga was appointed to the board of the conservator foundation of the University of Miskolc and Péter Szijjártó to the board of trustees of the conservator foundation of the Széchenyi István University of Győr.

⁶⁹ However, it is important to note that the above-mentioned public trust funds are subject to the act No. CXII of 2011 on the right of informational self-determination and on freedom of information.

Recent anomalies in epidemiological data: selective treatment of data according to party affiliation and perceived political opinion; refusal to comply with data requests

Sequence number of the criteria concerned: 4, 5, 6.

In our previous report, we addressed in detail the malpractices of the Operative Staff, and government agencies in general, regarding the handling of epidemiological data. These anomalies (e.g., pre-selection of press questions, complete disregard for certain press products) persisted, but new ones also supplemented them.

Both politicians and press representatives may have come across the state practice of treating the same issues concerning the pandemic situation differently by the data controller, presumably based on political considerations. In one case, it was revealed that Zsolt Szabó, the pro-government representative of Hatvan and its surroundings, had received epidemiological data concerning his constituency from the Heves County Government Office, which were published in a local online newspaper, but later this information disappeared from the site. In comparison, Angéla Németh, the opposition mayor of the 15th district of Budapest, was unable to access the data: Botond Sára, head of the Budapest Metropolitan Government Office, refused to release the data by saying that “the legal basis for data transfer indicated above ceased with the termination of the state of emergency”.⁷⁰

A somewhat similar case was reported by the newspaper Magyar Narancs, which questioned the Operative Staff and the conservator of the institution, whether a pandemic outbreak had really developed in the Elderly Care Home in Magyarbánhegyes. The newspaper did not receive any answer, unlike the county paper belonging to KESMA.⁷¹ The case fits well into the phenomena, revealed by the HCLU's research of how the operation of the independent press is hindered.⁷²

⁷⁰ <https://24.hu/kozelet/2020/10/26/koronavirus-adat-heves-megye-szabo-zsolt/>

⁷¹ <https://magyarnarancs.hu/kismagyarorszag/a-tajekoztatas-furcsasagai-avagy-szaznal-tobb-fertozott-egy-magyarbanhegyesi-intezmenyben-134858>

⁷² https://tasz.hu/a/files/Kutatasi-jelentes_final_20200226.pdf

https://tasz.hu/a/files/koronavirus_sajto_kutatas.pdf

At the beginning of November, the HCLU was not able to obtain specific epidemiological data through a public interest request. The data request aimed at obtaining data on the number of infected patients, the territorial care of the infection, and the patients treated in hospitals and at home.⁷³ The addressed data controller, the National Center for Public Health, partly directed in its reply the data requester to the website koronavirus.gov.hu (i.e. he referred to data known to the public), in all other cases he stated that he did not have the data at all or in the required form or in the required breakdown.

It questions the professionalism of an organization, that plays a key role in epidemiological control, that it is making decisions with such lack of information - however, it cannot be ruled out that the release of the data was unlawfully refused.

In addition to the above, on several occasions⁷⁴, data transmission incidents made it difficult to provide credible and accurate information, which errors were corrected or explained by the Operative Staff as a result of the press coverage. On one occasion, the government had to explain the contradictory data provided by the Prime Minister.⁷⁵

Problems with data releases (in correlation to the failure to maintain the WHO-recommended positive rate of roundabout 5% of all tests performed during the second wave) rightly gave the public the impression that the pandemic was no longer under control and government will make far-reaching decisions in the absence of adequate information, such as the possible looser regulation of Christmas family events.

This assumption is also supported by the information on the spring bed clearance, published in the autumn. Bernadett Szél, independent representative of the parliament, requested from the Ministry of Human Resources (EMMI) in April the ministerial decision on the spring hospital bed clearance due to the coronavirus and the underlying calculations, estimates and background

⁷³ <https://tasz.hu/cikkek/nem-hagyjuk-annyiban-a-titkolozast-a-jarvanyhelyzetről>

⁷⁴ <https://444.hu/2020/10/09/az-operativ-torzs-ellenorzese-is-megerositette-hogy-koronavirusban-hunyt-el-egy-39-eves-tanar>

https://hvg.hu/itthon/20201020_operativ_torzs_koronavirus_tajekoztato

<https://24.hu/belfold/2020/11/16/fertozottek-szama-koronavirus-magyarorszag/>

<https://444.hu/2020/11/26/a-kormanyzati-koronavirus-oldal-nagy-titokban-befrissitette-az-elvezgett-tesztek-szamat>

⁷⁵ <https://24.hu/belfold/2020/11/27/koronavirus-orban-magyarazat/>

materials. Szél did not receive these documents, so she filed a lawsuit, which she won in mid-October. In spite of this, the EMMI only wrote to her that the bed clearance was preceded by a capacity survey, and repeated the previous, since then several times factually refuted, government claim that only 2 per cent of hospital beds had to be cleared, as 58 percent were already empty.

Neither any documents, estimates, nor calculations were sent to the MP by the ministry⁷⁶ that would show the basis on which it was decided how many hospital beds should be vacated for prospective coronavirus patients. According to the MP, there was either no such calculation and it was decided on a whim or the documents were not released to her despite the court ruling.

Szél also received the spring bed clearance numbers from the National Health Insurance Fund (NEAK) in the fall, after winning a lawsuit, which showed that well over 2 percent of the officially reported beds were cleared and most patients were sent home from chronic wards.⁷⁷

The circumstances of reintroducing shopping hours for the elderly

Sequence number of the criteria concerned: 4

On November 23, 2020, the prime minister announced - honouring the request of the Council of the Elderly - the reintroduction of the daily shopping timeframe for shoppers older than 65 years with modifications compared to the same measures taken during the first wave of the coronavirus pandemic. Judging the professional correctness of the decision is not the purpose of this analysis. The only reason it is worth mentioning is the fact that it was not communicated by the government that the chairman of the Council of the Elderly is the prime minister himself, while the vice-chairman is the Secretary of State for Family and Youth Affairs of the Ministry of Human Resources and its members are appointed by the prime minister.⁷⁸ Journalist András Dezső was the first to point this anomaly out.

⁷⁶ <https://blog.atlatszo.hu/2020/11/nem-mondja-meg-az-emmi-hogy-milyen-szamitas-alapjan-dontottek-a-tavaszi-korhazkiuritesrol/>

⁷⁷ <https://blog.atlatszo.hu/2020/10/tobb-korhazban-felere-harmadara-csokkent-a-betegek-szama-marciusrol-aprilisra/>

⁷⁸ <https://net.jogtar.hu/jogszabaly?docid=A14H1712.KOR&txtreferer=00000003.TXT>

Even though the members are in part recommended by NGOs dealing with the affairs of seniors, this does not make the ties of the Council to the government less tight. This makes the fact that the government alluded that the decision was supported by independent, civil opinions, that they conducted social consultation with those affected and representatives of senior citizens, highly worrying. Although the representatives of commercial workers were not consulted before the announcement of the decision, they had the chance to express their experiences to the government concerning the shopping timeframe after the termination of the state of emergency during the first wave. The Secretary-General of the Hungarian Trade Association claims that their opinion was partly taken into consideration by the government⁷⁹.

Positive changes in the handling of OTKA tenders

Sequence number of the criteria concerned: no infringement to analyse.

One of the very few positive changes during the analysed period is that the anomaly surrounding the Hungarian Scientific Research Fund (OTKA) (the ranking list of the independent jury was altered by the Hungarian Ministry of Innovation and Technology resulting in projects receiving money not supported by the professional jury) - as presented in one of our previous reports - is to be remedied by the Ministry by handing the right to judge future OTKA projects back to the Hungarian Academy of Sciences.⁸⁰

Governing parties rendering the operation of the Parliamentary Committee of Social Welfare impossible

Sequence number of the criteria concerned: 4, 5

The Parliamentary Committee of Social Welfare, an especially important channel for monitoring epidemiological control is technically being boycotted by the governing parties. The members of governing parties were first absent from the committee meeting on November 3, 2020 due to

⁷⁹ https://hvg.hu/gazdasag/20201123_Orban_Viktor_kormanyrendelet_vasarlas_i_dosav

⁸⁰ <https://telex.hu/belfold/2020/11/17/tudomanyos-akademia-otka-palyazatok-dontes-itm>

other business and requested the meeting to be postponed to next week.⁸¹ On November 8, the governing parties announced⁸² that they were not going to participate in the work of the committee until the representative of MSZP, Lajos Korózs resigned as member and chairman. The reasoning behind the governing parties' decision was that during the first wave of the pandemic Lajos Korózs published a video that subsequently proved to be fake involving a woman claiming to be a paramedic, talking about the tragic consequences of hospital bed clearance in the spring.⁸³

The next meeting had to be cancelled on November 9 due to the committee being unable to reach a quorum without the governing parties' representatives being present.⁸⁴

The boycott of the committee is especially worrisome as it serves as the only forum where the members of parliament are able to ask questions of the Operative Staff. Since the Operative Staff only hold press conferences online and as mentioned earlier, some press products are consistently ignored, this hearing could provide essential, otherwise not attainable information to the public during the serious pandemic situation. Lőrinc Nacsa (member of party KDNP) expressly proposed that the committee should not keep the hearing with the members of the Operative Staff on November 9.

⁸¹ <https://444.hu/2020/11/03/a-fidesz-kdnp-nem-ment-el-a-nepjoleti-bizottsag-ulesere-igy-nem-lehetett-kerdezni-a-jarvany-elleni-vedekezesrol>

⁸² <https://444.hu/2020/11/08/a-fidesz-kdnp-bojkottja-miatt-a-nepjoleti-bizottsag-nem-kaphat-tajekoztatast-a-jarvanykezelesrol>

⁸³ <https://444.hu/2020/06/09/korozs-lajos-nem-ellenorizte-a-mentoskent-bemutakozo-no-hatteret>

⁸⁴ <https://444.hu/2020/11/09/jarvanykezeles-a-fidesz-kdnp-szabotalja-a-nepjoleti-bizottsag-uleseit-igy-az-ellenzek-kerdezhet-az-operativ-torzstol>

The contradictions between state communication and the implemented epidemiological measures, as well as other deficiencies of communication and information related to the special legal order and management of the pandemic

Sequence number of the criteria concerned: 4, 5.

In one case it was readily apparent that there was a severe contradiction between the governmental communication and the implemented epidemiological measures, which is worrisome due to the fact that the decisions were made with the exclusion of the public.

Gergely Karácsony, the mayor of Budapest, announced on November 4, 2020, that the capital would be launching an independent, specific antigen testing program aimed at those working in education.⁸⁵ The measure was deemed unprofessional by the National Center for Public Health (NNK) citing a lower rate of dependability than the quick tests and PCR tests.⁸⁶

On November 9, the prime minister after the pro-government press mostly repeated the statements made by the NNK, announced⁸⁷ that they would initiate a national screening program with the same means and target group as the Budapest program. It must be noted that the pro-government newspaper Magyar Nemzet previously published an article titled “We would be fooling ourselves by mass-screening teachers” citing the Ministry of Human Capacities,⁸⁸ furthermore that the capital had launched a screening program earlier with the same method but different target group, which did not receive a similar reaction from the state as the above program, which means that the condemning communication was likely politically motivated.⁸⁹

⁸⁵ https://www.napi.hu/magyar_gazdasag/koronavirus_tomeges_tesztelesbe_kezd_a_fovarosi_onkormanyzat.717003.html

⁸⁶ <https://www.nnk.gov.hu/index.php/koronavirus-tajekoztato/869-az-antigen-gyorstesztek-nem-alkalmasak-szuresre>

⁸⁷ https://hvg.hu/itthon/20201109_Karacsony_Gergely_kormanymedia_Orban_Viktor_teszt

⁸⁸ <https://magyarnemzet.hu/belfold/onbecsapas-lenne-a-tanarok-tomeges-koronavirus-szuresre-8614194/>

⁸⁹ <https://www.portfolio.hu/gazdasag/20200423/tomeges-koronavirus-tesztelest-indit-karacsony-gergely-427918>

Another disturbance happened in connection with the case of state communication related to a legislative process that was difficult to follow for even experts: the extension of the extraordinary measures related to the state of emergency declared on November 4 were announced on November 17 by Government Decree 505/2020. (XI. 17.), which stated that the restrictive measures in effect would be extended to February 8. However, the previous decree on the restrictive measures states that the provisions can only be applied until December 11. This results in a situation where the effect and the applicability are separated.⁹⁰ Several news outlets called attention⁹¹ to this situation, interpreting the legislative step as extending the restrictions for the period after December 11. The Government Information Center issued a statement in which they emphasized that “contrary to the the news published in the media today, the government is not extending the presently effective restrictions as these are to be applied until December 11.” *The government has extended the state of emergency to February 8 based on the decision of the Parliament.* This information appeared on koronavirus.gov.hu emblazoned with “FAKE NEWS!” in red naming the websites publishing the news and accusing them of fearmongering and purposely spreading misinformation.⁹² Similar articles were published in propaganda media as well.⁹³

State communication related to vaccine procurement is also worrisome Hungary is the only member state of the European Union to receive samples⁹⁴ of the coronavirus vaccine developed in Russia, furthermore it is the only member state to sign contracts with Chinese vaccine development companies. The possibility of domestic production of the Russian vaccine within the framework of the license also arose⁹⁵, furthermore, Hungarian scientists travelled to Russia to observe the production of the vaccine.⁹⁶

⁹⁰ <https://merce.hu/2020/11/26/a-veszelyhelyzet-olcso-hazugsag/>

⁹¹ https://hvg.hu/itthon/20201118_A_kormany_februar_8aig_meghosszabbitotta_a-veszelyhelyzeti_korlatolasokat

⁹² <https://koronavirus.gov.hu/cikkek/december-11-ig-ervenyesek-hatalyban-levo-intezkedesek>

⁹³ <https://888.hu/gazemberek/mintha-egyszer-ezt-mar-eljatszotta-volna-a-baloldali-propaganda-4284474/>
<https://pestisracok.hu/remhirt-terjeszt-az-index-es-a-hvg-nem-hosszabbitottak-meg-februarig-a-korlatozo-intezkedeseket/>

⁹⁴ <https://koronavirus.gov.hu/cikkek/szijjarto-jovo-heten-erkezhet-az-orosz-vakcinaminta-magyarorszagra>

⁹⁵ <https://koronavirus.gov.hu/cikkek/szijjarto-decembertol-kerulhet-magyarorszagra-az-orosz-vakcina>

⁹⁶ https://hvg.hu/itthon/20201127_orosz_vakcina_kutatok_szijjarto_koronavirus

Several professional concerns arose in connection with both vaccines: according to virologists, the documentation of the Russian vaccine was not published and it was approved in its country of production before the final test phase was completed.⁹⁷ Scientists called attention to the lack of transparency due to political reasons in connection with these vaccines.⁹⁸

The reason why it was necessary to turn toward “eastern” developments apart from western vaccines is questionable and has not been convincingly justified by the government. The prime minister summarized it as “it is important that there be a variety of vaccines,” however, the reason why was not stated.⁹⁹ The fact that the government at least takes these vaccines into account is especially difficult to understand in light of the fact that the European commission has previously approved the purchase of several millions of doses of the vaccines from western manufacturers¹⁰⁰ by member states, and these concerns did not arise in relation to these.

Due to the state measures related to the Russian vaccine, the European Union made the following statement: they emphasized that “The Hungarian plans for the import and possible use of the Russian coronavirus vaccine raise safety concerns and may be detrimental to public confidence, as it has not yet been approved by the European Medicines Agency (EMA).”¹⁰¹

The decision of the Constitutional Court regarding the freedom of information and the amendment of the regulations of requesting public data in the emergency government decree

Sequence number of the criteria concerned: 4, 6.

During the course of the spring state of emergency, a government decree was brought that significantly extended the deadline for issuing public data. According to the applicable legal regulations, the data manager must reply to requests for public data within 15 days, this may be

⁹⁷ https://hvg.hu/tudomany/20200812_orszorszag_koronavirus_vakcina_vedooltas_oltas_ellenszer

⁹⁸ https://hvg.hu/tudomany/20201110_virologus_kemenesi_gabor_vakcinafejlesztés_vakcina_koronavirus

⁹⁹ <https://koronavirus.gov.hu/cikkek/orban-fontos-hogy-legyen-tobbfajta-vakcina>

¹⁰⁰ <https://hu.euronews.com/2020/11/11/koronavirus-18-honapon-belul-juttatna-mindenkinek-oltast-az-eu-de-birjak-e-a-tempot-a-fejl>

¹⁰¹ <https://www.portfolio.hu/gazdasag/20201119/koronavirus-figyelmezteti-az-eu-magyarorszagot-az-orsz-vakcina-miatt-458252>

extended once for an additional 15 days. However, the government decree raised the maximum deadline for providing a reply threefold, thus, a data requester may have to wait 45+45 days to receive an answer. All these regulations were brought in when access to public interest data as soon as possible was in the special interest of the public due to the pandemic and information provision by the state, as evidenced above, was inadequate.

Representative of the parliament, Dr. Bernadett Szél initiated a constitutional law complaint procedure. On November 10, the Constitutional Court terminated the proceedings¹⁰² citing that the regulation is no longer in effect due to the state of emergency, thus, the investigation is no longer necessary. Following the decision above, the government issued Government Decree No. 521/2020 (V. 4.) allowing for divergence from certain regulations of data requests during the state of emergency. This decree, similarly to the regulations of the spring state of emergency, extends the deadline for fulfilling public interest data requests to 45 days. Sadly, this points to the fact that in the case of emergency governmental regulations, constitutional control essentially ceases, as it cannot be expected in the future that the Constitutional Court will assess the restrictive measures within a timely deadline.

Selective support of private companies

Sequence number of the criteria concerned: 1, 3, 4.

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, news¹⁰³ of the possible purchase of Budapest Airport, which has been through a difficult year, by a consortium of Hungarian companies hit the media. This offer was made with not insignificant support from the Hungarian government (according to some sources, the idea of 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 on selling its property, but it seems this does not discourage the consortium of potential buyers, a member of which is MOL, a company partially owned by the state. The government supports the buyers not only implicitly, so much so that in the interest of weakening the present owners' negotiation position, they explicitly vetoed the company's credit application

¹⁰² https://alkotmanybirosag.hu/uploads/2020/11/sz_iv_955_2020.pdf

¹⁰³ https://hvg.hu/kkv/20201009_budapest_airport_mol_orban_viktor_magyar_kormany

at the European Bank for Reconstruction and Development ¹⁰⁴. The procedure is unprecedented (the government vetoed the credit application of a company at an international organization in the interest of decreasing said company's value and liquidity so that its negotiating position will be less favourable against the government's chosen buyer.) In this case, the Hungarian government essentially flew in the face of the requirements of fair competition. This case is also an excellent example of the increasing overlap between state interests and the private businesses of persons close to the government, and it seems that the government (or at least members of it) do not really attempt to keep a well-defined line between private and state assets.

¹⁰⁴ https://nepszava.hu/3098495_meg-nem-tudtak-foldre-vinni-a-repteret