



**LIFTING THE LID ON LOBBYING:
NATIONAL REPORT OF HUNGARY**
LOBBYING IN AN UNCERTAIN BUSINESS
AND REGULATORY ENVIRONMENT

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www.transparency.hu

ISBN: 978-963-12-0781-1

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This project has been funded with support from the European Commission. This publication reflects the views only of the author, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.



Co-funded by the Prevention of and Fight against
Crime Programme of the European Union

LIFTING THE LID ON LOBBYING*

STRATEGIC PARTNERSHIP AGREEMENTS IN AN UNCERTAIN BUSINESS ENVIRONMENT

NATIONAL REPORT, HUNGARY**

* This report was accomplished in the framework of the „Lifting the Lid on Lobbying: Taking secrecy out of politics in Europe” project, funded by European Commission (HOME/2012/ISEC/AG/FINEC/4000003884), to assess the regulation and the practice of lobbying in the following 19 European Union Member States: Austria, Bulgaria, Cyprus, Czech Republic, Estonia, France, Germany, Holland, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Spain, Slovakia, Slovenia, United Kingdom. Findings and conclusions of the research will be published later by Transparency International’s Secretariat.

** The author extends special thanks to Judit Keller and Dániel Szügyi for their kind contribution to the accomplishment of this report.

LIFTING THE LID ON LOBBYING

Strategic Partnership Agreements in an Uncertain Business Environment

National Report of Hungary

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I. EXECUTIVE SUMMARY

By 2014, when the last session of the previous Parliament ended, the edifice of democratic checks and balances in Hungary has been disrupted, its institutional capacity to build equilibrium in public life has been weakened. In the view of Transparency International Hungary, the steps taken by the government have steered the country in the direction of a managed democracy, with an imminent danger that political influence over independent institutions, business and civil society may be exercised. There is clear doubt whether the state institutions designed to control the government's power are still independent and autonomous. Voices of doubt are strengthened by the poor anti-corruption performance of the incumbent administration. The lack of comprehensive lobbying regulation and the practice of lobbying are also worrisome signs that indicate the vulnerability of democratic decision-making processes in Hungary.

In the current Hungarian situation state capture is combined with cronyism. In this special type of state capture the extensive and expansive state has been in symbiosis with some powerful business groups and oligarchs. Although the magnitude of corruption may not have changed after 2010, when the current government took power, the corruption schemes have changed significantly. Corruption, similar to the overall structures of the public sector, has an extremely centralized character in today's Hungary. It comprises the elimination of independent state institutions, the almost total abolishment of checks and balances, some violation of private ownership rights and also the rise of rent-seeking behavior and actions. In the current Hungarian model the country is heading for an eastern type of state capitalism characterized by cronyism.

Lobbying was first regulated in Hungary by Act XLIX of 2006¹ ("Lobbying Act"). However, the Lobbying Act was considered to be unsuccessful by major stakeholders and had negligible impact on the transparency of lobbying. In practice, the licensed lobbyists had very few advantages, thus the number of registered lobbyists remained low. The current (and recently re-elected) Hungarian government repealed the Lobbying Act. Though Act CXXXI of 2010² and Government Decree No. 50 of 2013³ partially regulate some lobbying practices, the present legal context lacks effective regulation on lobbying in Hungary. The cultural context encompasses some controversial attitudes of stakeholders towards lobbying regulation in Hungary: while the lack of regulation is mentioned among the major shortcomings of the present lobbying environment, the previously existing lobbying regulation is considered as a largely ineffective policy tool.

The Hungarian business environment is perceived to be more uncertain than in other countries of Central Europe and international comparative surveys found that most of the critical factors of Hungarian competitiveness derived from the low level of credibility and stability of regulations, as well as the lack of transparency in government policymaking. At present, business environment uncertainties in Hungary are not mainly economic in nature; they are rather related to some specific features of democratic policy-making and shaped first and foremost by the governing political elite.

The Hungarian government in office as of 2010 turned policy-making into a terrain of unilateral decisions, where key political preferences are exclusively set and discretionarily implemented by

1 Act XLIX of 2006 on Lobbying Activities (hereinafter referred to as: Lobbying Act)

2 Act CXXXI of 2010 on Public Participation in the Preparation of Legal Regulations

3 Government Decree No. 50 of 2013 on the Integrity Management of Public Administration and the Regulation of Accepting Lobbyists (hereinafter referred to as Public Administration Integrity Decree)

the political elite. Independent policy initiatives of civil society actors, policy experts, professionals or business actors are often not even debated. This practice places democratic principles into doubt and tends to neglect policy evidences, which can easily lead to unpredictable or discriminatory policies in any domain. In the field of economic policy it has implied a normative categorisation of businesses present in the Hungarian economy: a distinction between good, 'productive' and bad, 'speculative' companies along the dimensions of size, ownership and type of activity. Besides sectoral surtaxes it shifted policy contacts between public officials and private companies towards upper political levels and contributed to the emergence of new and unconventional types of irregular lobbying. In addition, the general perception of uncertainty discourages sectoral self-regulation initiatives. Our case studies of lobbying in the financial, retail trade and tobacco sectors provided various kinds of evidence on shadow lobbying practices in a business environment predominated by political considerations.

Strategic Partnership Agreements ("SPA") can be considered a product of the peculiar government-business relations designed to mitigate the consequences of uncertainties evoked by the specific Hungarian business environment. SPAs have proven to be powerful policy and political tools; companies that have so far signed such agreements make up around 35 percent of total Hungarian exports and more than 8 percent of private sector employment and they play a particularly important role in three manufacturing branches (automotive industries, electronic and electrical industries and pharmaceutical industries). SPAs are not the

indicators of unfair lobbying; they rather aim at re-establishing normal communication between business actors and the government. Companies belonging to the inner circle, i.e. the closest allies of the governing Hungarian political elite, do not need to conclude an SPA; they instead follow their own path, employing informal lobbying practices. According to our findings, SPAs contribute to a gradual normalisation of the communication channels and to the resumption of strategic policy negotiations among government policy representatives and business actors not belonging to the political inner circle in Hungary. SPAs are not the most harmful policy tools in the present Hungarian lobbying landscape, though due to their discretionary character they arbitrarily distinguish between market players.

A future lobbying regulation can only be effective and sustainable in Hungary if it positively finds long-term support from all stakeholders concerned. To make it functional, the implementation of a future lobbying regulation needs to be controlled by an independent organisation. Moreover, the process of reregulation should also be inclusive and legitimate, which expects the legislature to involve all potential parties concerned. As deficiencies and distortions of lobbying practices are brought about by the general decline of democratic standards in Hungary, the priority for reform should be reinstating democratic processes, enhancing the transparency of public life and improving the government's anti-corruption performance. However, a new and modern law on lobbying and the intransigent enforcement thereof is also needed, just as encouraging lobbying self-regulation by business actors.

II. INTRODUCTION

Transparency International's European National Integrity System regional report 'Money, Power and Politics' (2012) found that in most European countries, the influence of lobbyists is shrouded in secrecy and a major cause for concern. When undertaken with integrity and transparency, lobbying is a legitimate avenue for interest groups to be involved in the decisions that may affect them. Problems arise when lobbying is non-transparent and unregulated and where privileged access is granted to a select few while others are excluded from decision-making processes. Corporate lobbying in particular raises concerns because it often involves companies with vast sums at their disposal developing close

relationships with lawmakers and thus gaining undue and unfair influence in a country's politics and policies.⁴

A recent Eurobarometer report revealed that 81% of Europeans agree that overly close links between business and politics in their country has led to corruption and more than half believe that the only way to succeed in business in their country is through political connections.⁵ This corroborates the data from TI's Global Corruption Barometer 2013, which found that in many European countries more than 50% of people believe that their country's government is to a large extent or entirely run by a few big interests.⁶

Definitions and assessing lobbying rules and practice

The definition of **lobbying** for this project is "Any direct or indirect communication with public officials, political decision-makers or representatives for the purposes of influencing public decision-making carried out by or on behalf of any organised group." 'Lobbyists' can include not only professional lobbyists, but private sector representatives (in-house lobbyists), public affairs consultancies, representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.

Transparency is crucial if there is any chance of public trust in politics being restored. When looking at transparency around lobbying practices, our research sought to answer the following overarching question: to what extent does the public have sufficient knowledge of (a) who is lobbying public representatives (b) on what issues they are being lobbied (c) when and how they are being lobbied (d) how much is being spent in the process (e) what is the result of these lobbying efforts? We also sought to investigate whether the onus for transparency is placed on both the lobbyist and the public official/representative.

We believe that transparency of lobbying must be embedded within a broader public sector **integrity** framework which mitigates the risks of conflicts of interest when important decisions are being taken.

Finally, when regulating lobbying, transparency and integrity measures are crucial but they must be accompanied by rules that allow for **equality of access** to decision makers, which is essential to fairness and pluralism in the political system. Our research asked whether there are enough spaces in the system to allow for diverse participation and contribution of ideas and evidence by a broad range of interests that lead to policies, laws, and decisions which best serve society and broad democratic interests.

4 See TI (2012) <http://www.transparency.org/enis/report>

5 See Eurobarometer (February 2014) Special Report on Corruption: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/index_en.htm

6 See TI (2013) <http://www.transparency.org/gcb2013/report>

Hungary, as a member of the European Union, has a democratic system with an institutional setup originally designed to guarantee checks and balances by law. However, the Fidesz party gained a two-thirds majority in Parliament at the 2010 national elections⁷, and subsequently could not resist the temptation to ‘re-engineer’ the public arena to its own will. This involved a series of unilateral changes – the government did not consult experts or the public and in many cases its decisions ran contrary to European standards and domestic constitutional traditions. To a certain extent it was understandable that the Fidesz government wanted to make things operational and be hard-handed and determined to go along their own path.

However, from the very first moment the government used legislative tools to back political loyalists, which very soon resulted in undue favoritism on the side of their own clients. As part of this course, the government packed independent institutions with appointees with questionable professional careers but with a clear political background. This happened inter alia to the Constitutional Court, the media board, the State Audit Office, the Office of Judicial Administration, the National Bank of Hungary, and the prosecution service. Sometimes even stronger instruments were employed to push the government’s agenda through. For example, the Constitutional Court suffered a major reduction of its power as a result of which constitutional review of laws on public revenues and social contributions was virtually eliminated, which made it easier for the government to introduce laws on sectoral surtaxes, with retroactive effect. The new Constitution, called the ‘Fundamental Law,’ was also adopted and introduced unilaterally and has already been amended five times, even though it was supposed to be a long-lasting modern Constitution.

By 2014, when the last session of the previous Parliament ended, the edifice of democratic checks and balances in Hungary has been disrupted and its institutional capacity to build equilibrium in public life has been weakened. In the view of Transparency International Hungary, the steps taken by the

government have steered the country in the direction of a managed democracy, with an imminent danger that political influence over independent institutions, business and civil society may be exercised. There is clear doubt whether the state institutions designed to control the government’s power are still independent and autonomous. Voices of doubt are strengthened by the poor anti-corruption performance of the incumbent administration.

The lack of comprehensive regulation and the practice of lobbying are also worrisome signs that indicate the vulnerability of democratic decision-making processes in Hungary. As the Lobbying Act was abolished in 2010, there is no specific legislation in place to govern the influencing of policy decision-making in a transparent manner. Though the government introduced a Public Administration Integrity Decree in 2013, this does not require either the mandatory registration of lobbyists or the disclosure of contacts with lobbyists to an independent control body.

Accordingly, this report intends to untangle the practice of lobbying in an opaque environment when lack of effective regulation and discretionary policy measures are shaping the relations between business actors, NGOs, other interest groups and the government. The report first explores the regulatory and cultural context of lobbying, and it briefly presents the Hungarian business environment from an institutional transparency perspective in a comparative context of the Central and Eastern European region. Empirical research has been conducted to better understand present Hungarian lobbying mechanisms. Research findings highlight general features of lobbying in an uncertain business environment where uncertainty is to a large extent evoked by politics and characterized by laws that fail to bring about substantive changes and are only adopted to portray the government’s commitment to formally comply with expectations in the field of anti-corruption. Three case studies illustrate the peculiarities of lobbying practices in Hungary: the random taxation in the financial and retail trade sectors and the way in which regulatory power is employed to promote

7 The Fidesz-led party alliance once again won two-thirds of parliamentary seats at the 2014 national elections held on April 6, 2014

particular business interests. In addition, we will map out how SPAs are rewriting the relations between government and business. This research understands SPAs as specific policy measures in a business environment where in addition to traditional market risks unpredictable political risks are also high. Finally, the report discusses the main findings and it provides recommendations to outline the prospect of transparent and regulated lobbying in Hungary.

This report first explores the regulatory and cultural context of lobbying and it briefly presents the

Hungarian business environment through the lens of institutional transparency in a comparative context of the Central and Eastern European region. Then, based on new empirical research and three case studies, it highlights the general features of lobbying practices in Hungary where an uncertain business environment is partly evoked by politics. In addition, we map how a specific policy measure, the Strategic Partnership Agreement (“SPA”) is shaping the relations between the Hungarian state and business actors. Finally, the report discusses the main findings and it provides some recommendations for major stakeholders.

Description of empirical research: issues and methodology

Empirical research supported by desk review of the relevant documents and in-depth interviews targeted the following two issues.

First, we explored the specific methods of lobbying in Hungary, a country where the business environment is uncertain. The research indicates a shift of policy contacts to higher power levels between public officials, political and business actors. It maps the relevant fora of lobbying opportunities for business actors when the national business environment is perceived to be uncertain. In addition, we present three case studies: two are related to random taxation in the financial and the retail trade sectors, while the third case study illustrates how regulatory power is employed to promote particular business interests.

Secondly, the particular role of Strategic Partnership Agreements in the present Hungarian context of lobbying is addressed. The research provides insight into the motives of both participating businesses and that of the government, it describes the process of selection of the companies by the government, and it identifies the role of SPAs in favoured vs. punished sectors. In addition, we seek to provide some insights about the potential consequences of the SPAs on the broader economic policy atmosphere, first and foremost the transparency of the national business environment and lobbying.

In the empirical research we applied qualitative research methods. This includes the desk review of the key documents and the relevant assertions of the major actors. Another added value of the research derives from the nine in-depth interviews conducted with key stakeholders. Six interviews were done with key decision-makers of selected companies; our logic in selecting them was to cover the heterogeneous composition of the Hungarian corporate landscape from the perspective of lobbying potential. Accordingly, we prepared interviews with three corporate leaders from the punished sectors that suffer from discretionary policy measures that decrease the profitability of the companies; among them, one large multinational company represents the energy sector while two companies belong to business service branches. We also prepared three interviews with corporate leaders from the favoured sectors that do not suffer from these types of policy sanctions. Each of these companies belongs to the manufacturing industries: two of them are large multinational companies, while in one of the selected companies Hungarian owners are in dominant position. Two of the remaining interviewees represent professional associations that are usually powerful lobbying forces and that represent the majority of potentially involved business partners in Strategic Partnership Agreements. In addition, we also succeeded in preparing an interview with a public official. As practically all of our interviewees required that their answers be provided in a non-identifiable, anonymous way⁸, we are referring to our interviewees only with broader descriptions.

The empirical background of the three lobby case studies stems from a process tracing approach supported by a desk review of relevant legal documents and media content provided by investigative journalists. We present the three cases as a separate sub-section of lobbying in an uncertain business environment.

⁸ Previously this was not typical in these types of empirical fieldworks. Indeed, this also could be considered as a proxy of high uncertainty in a democratic and market environment.

III. MAPPING THE LOBBYING LANDSCAPE IN HUNGARY

III.A NATIONAL CONTEXT – POLITICAL, SOCIAL AND LEGAL CONTEXT IN HUNGARY

Prior to adopting the Lobbying Act, a voluntary lobbyist registry was introduced in Hungary in 1994. In an attempt to regulate lobbying the government had proposed a draft law on Legislative Lobbying⁹ to the Parliament, but this was later withdrawn. The Lobbying Act entered into force on September 1, 2006, accompanied by the government's decree on the implementation of the Lobbying Act¹⁰. The Lobbying Act provided a mandatory registration system for lobbyists, envisioned a common code of conduct, and prescribed reporting requirements for both lobbyists and executive decision-making bodies. The law provided sufficiently deterrent pecuniary sanctions that could be applied in the event of non-compliance, i.e. the Lobbying Act foresaw a maximum fine of HUF 10 million (approx. EUR 33 thousand) to be imposed on any person doing lobbying without registering as a lobbyist. In case of reoffending, the fine was to be multiplied. The registry was maintained by the Central Office of Justice, a subordinate to the Ministry of Justice and Law Enforcement. By September 2010 there were approximately 600 lobbyists registered in Hungary (OECD 2012:61), however, there were market suggestions that this number might only have been the tip of the iceberg.

However, the "Lobbying Act was unsuccessful, and its drawbacks became visible when it was applied" (Burai – Hack, 2012:63). The majority of actual lobbyists in Hungary judged that the Lobbying Act had a negligible impact on the transparency of lobbying. There were various reasons behind this: first, it was technically easy to circumvent the regulation, because it had a jurisdiction only in regard of registered lobbyists, as a result of which anybody who omitted

to register itself as a lobbyist fell out of reach. Had the authorities enforced the sanctions as prescribed in the Lobbying Act, anyone who did lobbying without prior registration could have defended itself by simply denying the perpetration of any wrongdoing. The Central Office of Justice failed to elaborate any guidelines or principles to establish, who qualifies a lobbyist, even in lack of registration, and therefore there were no on-hand tools to call the defense used by non-registered lobbyists into question. There has not been any evidence that indicated that the Central Office of Justice took non-registered lobbyists to court claiming that the persons concerned wrongfully omitted to register so as to circumvent legal prescriptions and obligations. In the end, the Lobbying Act placed a huge burden on those who registered themselves as lobbyist, while it made easy for anyone to avoid any attention of the authorities. Second, a specific qualitative research of TI-H that intended to map the broader cultural context of lobbying in Hungary found that the majority of Hungarian stakeholders perceived that the new lobbying regulation did not take into account the Hungarian context and therefore it was not appropriate for the country's legal and political culture, and that moreover, there was no attempt to adapt the regulation to Hungarian practice (Alexa et al., 2012). In this respect, it is important that neither the actors of Hungarian public administration nor business stakeholders were involved in the process of making the regulations. Consequently, support for the Lobbying Act was rather moderate among stakeholders, it was never properly implemented, and the government also failed to in enforcing its regulations.

Reporting obligations placed a large administrative burden both on lobbyists and public officials. Another unresolved issue was the treatment of confidential business information. As a result, lobby meetings

9 Draft Law No. T/5213 of 2001 on lobbying in the legislative process

10 Government Decree No. 176 of 2006

were often held unofficially, without official reports, or the reports contained very little specific information about the meetings. Even registered lobbyists reported very little actual lobbying activity. In practice, licensed lobbyists had very few advantages while they carried a large bureaucratic burden, a reason why their number remained moderate.

The Burson-Marsteller comparative European survey on lobbying (2013) also explored some important findings. On the one hand, 75% of Hungarian stakeholders¹¹ considered lobbying to be insufficiently regulated in the country (the average in the surveyed European countries is 56%).¹² On the other hand, in contrast to most European countries, 60% of Hungarian respondents stated that they typically turn to their personal networks to obtain information relevant to making decisions (the European average is 42%).¹³ A third finding is that respondents consider that both Hungarian corporate lobbyists and NGOs share certain patterns of poor lobbying practice: first and foremost, the lack of transparency in interest representation and support of positions with emotions rather than facts (the perceived ratio of this latter practice in Hungary is 63%, while the European average is 42%).¹⁴ In other words, the apparent dissatisfaction with the lack of regulation on lobbying is coupled with a socio-cultural context that favours informal and shadow lobbying practices. Thus at present, the predominance of emotions and the trust in personalized social capital does not favour the classical form of lobbying regulation in Hungary. It is noteworthy that according to this comparative European survey Hungarian stakeholders' attitudes towards lobbying do not differ much from the patterns found in other Central and Eastern European countries. However, the survey revealed a peculiar uncertainty in the perception of Hungarian stakeholders: Hungary is the only country where the majority of respondents (55%) do not have clear expectations about the future development

of regulations on lobbying (the average proportion of uncertain citizens in the surveyed European countries is 27%)¹⁵. The controversial attitude of the Hungarian respondents probably reflects not only the dissatisfaction with the lack of regulation, but also the past negative experiences of the previous lobbying regulation as well as the general uncertainty concerning regulation changes in Hungary at present.

This anticipates that a future lobbying regulation may only be effective and sustainable in Hungary if it positively finds long-term support on behalf of all stakeholders concerned. To make it functional, the implementation of a future lobbying regulation needs to be controlled by an independent organisation. Moreover, the process of reregulation should also be inclusive and legitimate, which expects the legislator to involve all potential parties concerned. These requirements are indeed the features of a functional democracy where trust in social and political institutions is relatively high and there are positive feedbacks between political decision-makers and business actors, civic organisations, as well as citizens. However, Hungary could be considered a new democracy where democratic procedures are vulnerable and trust in political institutions is moderate. This ultimately means that lobbying in Hungary typically happens in an uncertain political and business environment.

III.B BROADER TRANSPARENCY AND INTEGRITY FRAMEWORK – MANY REFORMS WITH LITTLE PROGRESS

III.B.1. Access to information framework

The Fundamental Law of Hungary, especially Articles VI (2) and 39 (2), and other specific laws, in the first place Act CXII of 2011 on Freedom of Information (hereinafter referred to as Law on Freedom of

11 Interviewees included politicians (both Members of national Parliaments [MPs] and Members of the European Parliament [MEPs]) and senior officials from national governments and the European institutions.

12 Burson-Marsteller (2013): European Lobbying Survey 2013, p. 65.

13 Burson-Marsteller (2013): European Lobbying Survey 2013, p. 71.

14 Burson-Marsteller (2013): European Lobbying Survey 2013, p. 71.

15 Burson-Marsteller (2013): European Lobbying Survey 2013, p. 65.

Information) provide both citizens and foreigners the right to access information held by public bodies through freedom of information requests submitted in oral or written form. However, the bodies controlling such information may restrict access in order to protect what they determine to be legitimate public interests, as defined by law. Public bodies are required to disclose information within 15 days upon receiving a request or provide the requestor detailed reasons for any denial within eight days. The list of exceptions set by the law includes information on national security; prevention and prosecution of crimes; protecting the nature and environment; central financial reasons; foreign affairs; ongoing legal procedures; and intellectual property. Requestors may appeal denials in court within 30 days or initiate the procedure of the National Data Protection and Freedom of Information Authority established in 2012. Illicit use of public information is punishable with imprisonment for up to three years under criminal law provisions.

On January 2012, the National Authority for Data Protection and Freedom of Information replaced the former Office of the Data Protection and Freedom of Information Parliamentary Commissioner ('Ombudsman') and became responsible for supervising and defending the right to the protection of personal data and to freedom of information in both the public and the private sectors. In April 2012, the European Commission referred the infringement procedure against Hungary to the Court of Justice of the European Union for failure to correct the early termination of the former data commissioner's term. On April 8, 2014 the Court of Justice of the European Union ruled¹⁶ that Hungary's early termination of the former parliamentary data commissioner's term was a violation of the *acquis communautaire*.

On April 28, 2013, the Parliament passed a motion in a fast-track procedure – in the midst of the tobacco concession dispute, see case study [The tobacco retail scandal] under IV.C.3 below – amending

the Law on Freedom of Information to introduce multifold restrictions to obstruct access to public interest data. The amendment stipulated *inter alia* that that certain public interest information requests may only be guaranteed if other special laws (such as the Civil Code, the Criminal Procedure Code, or the Law on Concessions, the latter serving as background legislation of the Tobacco Retailing Act) expressly provide the possibility. In addition, citizens were to be forbidden to come up with requests that demand “as extended access to data as only supervisory authorities defined in the law may have.” Transparency watchdog NGOs highly criticized the amendment claiming it allows state institutions managing data broad leeway in rejecting requests for public information, restricting full access to data to specific governmental institutions (such as the State Audit Office and the Government Control Office). TI-Hungary warned, that the “amendment is the first step down a slippery slope, at the bottom of which is full state control of public information.”¹⁷ TI-Hungary, concerned because the law would “allow government officials to get away with bias in their actions and could see corruption go unseen and unpunished in future”, in coalition with different other civil society organisations urged President Ader to ask the Constitutional Court to express an opinion on the proposed law, as the vague and obscure terms included in the amending law open the door to arbitrary interpretations and would have eased a ruling to declare most of the restrictive provisions unconstitutional. Mr. Attila Péterfalvi, president of the National Data Protection and Freedom of Information Authority in a frustrating speech he delivered in Parliament condoned the amendments, contending that certain excessive public interest data requests were clearly abusing the right to freedom of information, and added that these needed to be banned by the law. Thereby Mr. Péterfalvi gave legitimation to an outstandingly serious curtailment of freedom of information. On May 8, 2013, President Janos Ader, instead of taking the law to

16 See case C-288/12. <http://curia.europa.eu/juris/document/document.jsf?text=&docid=125053&pageIndex=0&doclang=HU&mode=req&dir=&occ=first&part=1&cid=880384>

17 http://www.transparency.org/news/feature/hungarian_transparency_under_threat
http://www.transparency.org/news/pressrelease/20130508_hungary_government_closing_down_freedom_of_information
<http://blogs.ft.com/beyond-brics/2013/12/03/hungary-blooms-but-corruption-remains/>

the Constitutional Court sent it back to Parliament for reconsideration on the basis that it gives too much leeway to decide which information requests to act on, which may result in arbitrary and partial judicature. On June 11, 2013, Parliament adopted with minor changes the original bill which entered into force on June 21, 2013. The amended Law on Freedom of Information says that “overarching, invoice-based,” or “itemized” audit of the “management of a public authority” shall not be governed by the Law on Freedom of Information. The amendment also violates the right for judicial review: it is uncertain whether citizens and NGOs can lodge complaints against those public bodies which withhold data of public interest. On June 26, TI-Hungary, again in coalition with other civil society organisations sent a joint open letter to the ombudsman, the President of the Curia and the Prosecutor General urging their action in seeking the annulment of the newly adopted regulations at the Constitutional Court, but all of the requested higher authorities denied doing so.

Devolution of freedom of information is a significant step backwards. Today in Hungary, citizens have more difficulty in accessing data on public spending and the functioning of public authority, both funded by taxpayers. This weakens the civil society’s tools for holding the public authority accountable and it enables an irresponsible and not accountable exercise of power.

II.B.2. Protection of whistleblowers

On October 14, 2013, Parliament adopted a new law on whistleblower protection (Act CLXV of 2013, hereinafter referred to as Whistleblower Protection Act) which provides for anonymity for whistleblowers and protects them from negative consequences. An official of each public institution will be appointed to minimize the institution’s exposure to corruption and forward reports from witnesses to the ombudsman. Witnesses can also submit complaints electronically. Criticizing the new law for failing to provide adequate

protection to whistleblowers, TI-Hungary called the legislation little more than a “simple declaration that any punishment of whistleblowers is unlawful.” As the Global Corruption Barometer claimed Hungarians to be the worst whistleblowers in Europe¹⁸, indicating that 70 per cent of Hungarians would not report corruption, TI-Hungary also condemned Whistleblower Protection Act publically for its undoubtedly formalistic approach. In TI-Hungary’s judgment, the Whistleblower Protection Act fails to provide effective protection to reporting persons and does not provide new investigative mechanisms.

The effectiveness of criminal law provisions on the protection of persons reporting corruption has also been seriously limited. The criminal code previously had provided a specific ground of justification enabling the authorities to dispense with the charges entirely extending a kind of impunity over perpetrators of bribery reporting the offence prior to its detection by the authorities. An amendment to the criminal code in force as of 1 January 2012 replaced the ground of justification by providing for mitigation of the punishment of reporting offenders¹⁹. This may discourage offenders of corruption from co-operating with the authorities, an astonishing improvidence in a country where the law-enforcement is so outrageously incapable of tackling corruption.

Exposing reporting persons to any retribution used to have been a wrongdoing to which criminal sanctions applied, but a law²⁰ amending the Criminal Code repealed this offence. Discrimination and/or retribution against whistleblowers now only qualify as a petty offence (bagatelle offence/contravention), due to the law in force as of 1 February 2013.

TI-Hungary is still convinced that whistleblowing is not merely an ethical problem thus requires a well-planned and comprehensive legal solution that has not been offered yet. At the same time, codes of conducts should lean on a well-functioning whistleblower protection system but do not substitute it.

18 http://www.transparency.hu/uploads/docs/GCB2013_Report_Embargo.pdf p.22

19 § 11 of Act CL of 2011 on the amendment of the Criminal Code

20 § 36 of Act CCXXIII of 2012 on the amendment of the Criminal Code

III.B.3. Political finance

The financing of the political parties' campaigns has been an unresolved issue since the fall of communism and at the same time it poses the biggest corruption risk in Hungary. Since the change of regime, the majority of the parties' revenue comes from subsidies from the state budget, while only a small part of it consists of the members' contributions. Today in Hungary, even the most politically committed citizens do not feel the need to financially contribute to the activities of the preferred party. Starting this year, in accordance with the new regulation²¹, apart from state funds and membership fees parties can only accept financial support from Hungarian nationals.

Political parties' financial management and their resources are opaque. Laws fail to set out clear cut regulations as to by which deadline political parties are obligated to publish their financial reports on their websites and the content of these statements are also vaguely prescribed. As a result, these financial reports are not detailed enough to provide a deeper insight in political finances and they open the door to financial misstatements wide.

Based on TI-Hungary's experience unlawfully obtained funding obliges political parties to business actors, and when the governing party is elected, the favour of corrupt financing is returned by allocating public funds in biased, fraudulent ways. The Hungarian political elite seem to have difficulties in admitting the existence of extreme expenditures on political parties' behalf and the inordinate costs of their campaigns, which easily amount to billions of forints. Turning a blind eye on this is devastating, as there is no political will to confront the public that a transparent political financing mechanism, no matter how costly it appears has lower social costs than gaining illegal funds.

A new law on campaign financing (Act LXXXVII of 2013 on Parliamentary Campaign Finance,

hereinafter referred to as Parliamentary Campaign Finance Act) was adopted on June 10, 2013 and was first applied in the 2014 campaigning period. In TI-Hungary's judgment, the Parliamentary Campaign Finance Act does not live up to the requirements of a modern and transparent political finance solution. The advantages of the Parliamentary Campaign Finance Act are on the one hand, that the law provides parties with hundreds of millions of forints for campaigning, and on the other hand, the ceiling of campaign spending per candidate was raised from HUF 1 million (approx. EUR 3300) to 5 million (approx. EUR 16500). Moreover, the Parliamentary Campaign Finance Act makes campaign spending of individual MP candidates transparent and accountable, a major step forward to combat corruption in political finance. However these provisions do not apply to political parties, as a result of which party spending remain as obscure and unaccountable as it used to be and it may uncontrollably involve public money that arrive through intentionally designed and professionally managed channels. Among others Parliamentary Campaign Finance Act enable political parties to declare billboard tariffs a secret, it omits to oblige parties to give real time and ongoing account of their expenditures, and fall short of issues such as outsourcing political campaigns to GONGOs and PONGOs, the source and origin of non-state secured campaign funds, and the incapability of the State Audit Office to screen political parties' financial misstatements regarding their campaign spending. The 2014 national elections in Hungary saw TI-Hungary allying with other non-governmental organizations to run a civil society campaign cost assessment project, which came to the disappointing conclusion that funding coming from undisclosed resources were extensively used to promote the campaigns of the governing parties, which repeatedly won two thirds of parliamentary seats. Parties' reports on campaign expenditures are to be solely submitted to the State Audit Office, which has so far never addressed questionable transaction in these statements and also failed to compare parties' declarations to reality. There is tangible reluctance

²¹ § 79 of Act XIV of 2014 on the amendment to the Act XXXIII of 1989 on functioning and financial management of political parties. I

on the political level to step up against corruption in political finance, which puts democratic in Hungary to immense risks.

III.B.4. Criminal sanctions applicable to trading in influence

In 2012 the Parliament adopted a new Criminal Code²² that entered into force on July 1st 2013, which in regard of the criminalization of corrupt practices, relies on Hungary's previous penal regulations. Different forms of undue influencing have long since been punishable in Hungary, and most of them fall under the concept of bribery. Trading in influence also qualifies an offence under Hungarian criminal law, however this offence appears as a sui generis form of cheating/defrauding. Influence trading does not entail any exchange of unlawful advantages, therefore this offence does not require a corrupt transaction. Trading in influence apply to unlawfully pretending the commission of a bribery either in public or in business relations. The concept of influence trading has been widened by a law adopted in 2011²³ making the influencing of the person trading in influence a punishable act. Moreover, from January 1st 2012 giving or promising undue advantage as a form of trading in influence in international relations (active trading in influence in international relations) is also criminalized.²⁴

Sanctions applicable to trading in influence and other corrupt practices are sufficiently deterrent, however lack of professional capability to enforce relevant laws and sometimes bias political motivation may prevent the authorities from efficient policing of corruption. Statutes of limitation in case of bribery and trading in influence were increased to at least five years by the Act 150 of 2011.²⁵ Earlier the minimum SoL was three years. This provision has however lost its significance, as the new Criminal Code says that the general SoL shall be five years.

22 Act C of 2012

23 Article 12 of Act CL of 2011)

24 Article 15 of Act CL of 2011. It is worth noting, that corrupt behaviours may in some cases fall under the scope of different other criminal offences, such as for instance embezzlement, abuse of power, tax fraud, etc.

25 Article 13 of Act CL of 2011.

<http://www.complex.hu/kzldat/t1100150.htm/t1100150.htm>23 Interjú "A" public affairs szakértővel

III.C INTENSITY AND SCOPE OF LOBBYING

III.C.1. Crony capitalism

Crony capitalism in economic literature refers to an economic system which is nominally free-market but allows for preferential regulations and other state intervention based on favoritism, personal relationships and attendance of rent seeking behavior. If rent seeking behavior prevails money-making becomes possible based not on market performance but on political connections. Economic actors are prone to seek the grace of the state (government) instead of competing on a regulated market. The cronyism is not necessarily or even primarily linked to state ownership; private companies and entrepreneurs can also be subjects of rent seeking. Rent seeking and cronyism distort the market and enhance suboptimal transactions through the misallocation of resources. If in an economy and society the state stimulates the rent seeking attitudes and actions, it sooner or later inevitably leads to "public bad" instead of the promotion of "public good." On the macro level rent seeking and cronyism lead to a deterioration of institutional performance, e.g. the non-transparency of government decision-making, and undermines business ethics. If the institutions do not serve the public good by being inclusive, they become extractive, i.e. provide a ground for the elite's abuse of power for their private interests. It eventually may contribute to a loss of competitiveness and may jeopardize growth prospects. This is reflected in the competitiveness rankings of countries: the correlation between competitiveness and transparency prevail in a number of cases.

On the other hand, rent seeking may be considered a special type of corruption as it implies the abuse of public trust for private gains. Cronyism may be linked to state capture, a phenomenon where powerful oligarchs either outclass the government or are in

symbiosis with influential public decision-makers. If a state is captured the public decision-making process reflects primarily private interests instead of the endeavors of resounding the public good. The combination of state capture and crony capitalism leads to a situation where rent seeking is stimulated not only by the government but also by the influential business groups and oligarchs.

In the current Hungarian situation, state capture is combined with cronyism. In this special type of state capture the extensive and expansive state has been in symbiosis with some powerful business groups and oligarchs. Although the magnitude of corruption may not have changed after 2010, when the current government took power, the corruption schemes have significantly changed. Corruption, similar to the overall structures of the public sector, has an extremely centralized character in today's Hungary. It comprises the elimination of independent state institutions, almost total abolishment of checks and balances, some violation of private ownership rights and also the rise of rent seeking behavior and actions. In the current Hungarian model the country

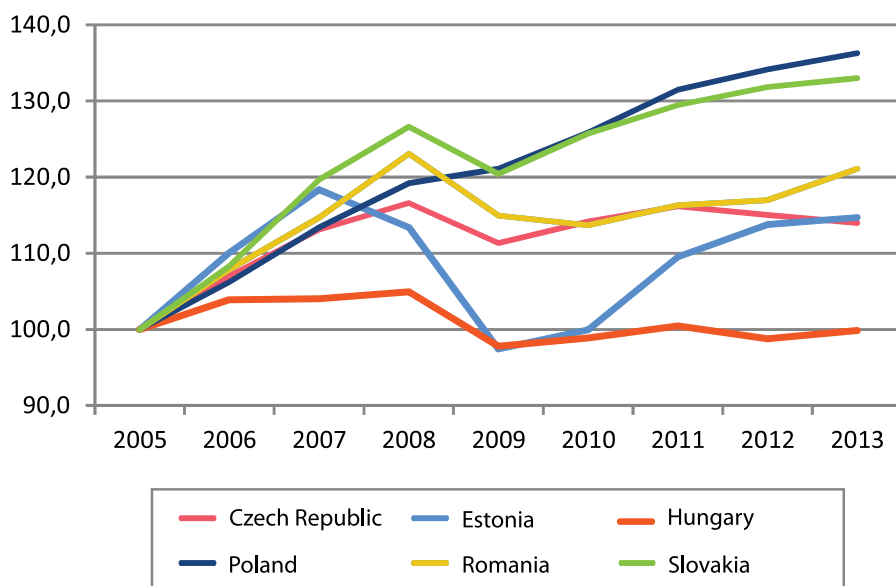
is heading for an eastern type of state capitalism characterized by cronyism.

A number of examples indicate the government's intention to grant privileges to certain economic actors by legal means, e.g. the nationalization and subsequent redistribution of tobacco retail concessions, or the same process in the financial sector, where savings cooperatives were first nationalized by law and then re-privatized to an entrepreneur close to the government. In these cases the regulations are tailor-made, hurting market incumbents and favoring new players with tighter or looser links to the government.

III.C.2. Business environment

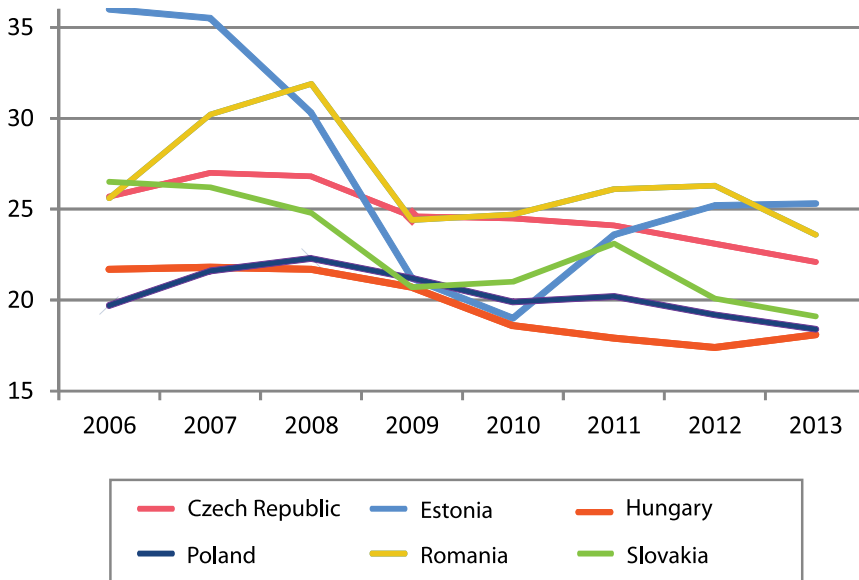
The uncertainty of the Hungarian business environment is an important contextual factor when one studies lobbying. In this section we briefly map the main features of Hungarian business development in comparison with some other EU member states of Central and Eastern Europe (CEE).

CHART 1
REAL GDP DEVELOPMENT IN CENTRAL AND EASTERN EUROPEAN COUNTRIES, 2006-2013 (2005=100)



Source: Eurostat

CHART 2
INVESTMENT RATES IN CENTRAL AND EASTERN EUROPEAN COUNTRIES, 2006-2013
(GROSS FIXED CAPITAL FORMATION AS % OF GDP, CURRENT PRICES)



Source: Eurostat

Longer term comparative GDP growth trends (see Chart 1) clearly reflect the weak performance of the Hungarian economy. Though some other EU member states of the region (e.g. Estonia, Romania) also suffered heavy declines in the 2008–2010 crisis period and during the last five years the Czech economy also lacked convincing signs of recovery, Hungary is the only EU member state of the CEE region²⁶ where the GDP level of last year was still only around that of 2005²⁷. On the other hand, in 2013 Poland and Slovakia achieved a GDP level already more than 30 percent higher than eight years ago. The most salient factor of weakness in the Hungarian business environment is the chronic underinvestment (see Chart 2) that implies gloomy growth prospects on a longer run as well. The average investment rate²⁸ in the country was below 20 percent between 2006 and 2013. Moreover, in 2012 it fell to 17.4 percent

– a record low figure indicating a strong need for improvement in Hungarian business climate.

The last comparative ‘Central and Eastern Europe Investment Climate Survey’ published by the German-Hungarian Chamber of Industry and Commerce underlines that the Hungarian business environment has significantly deteriorated since the mid-2000s (DUIHK 2013:18). This is in sharp contrast with the perception of the business environment in the three other Visegrad countries (Czech Republic, Poland and Slovakia) that maintained their leading position among international investors in Central and Eastern Europe. In the last couple of years the evaluation of the Hungarian business climate resembles more that of the South-Eastern European countries.

26 Besides Slovenia

27 the first full year of the CEE countries’ EU membership

28 Investment/GDP ratio, measured as gross fixed capital formation divided by GDP at current prices

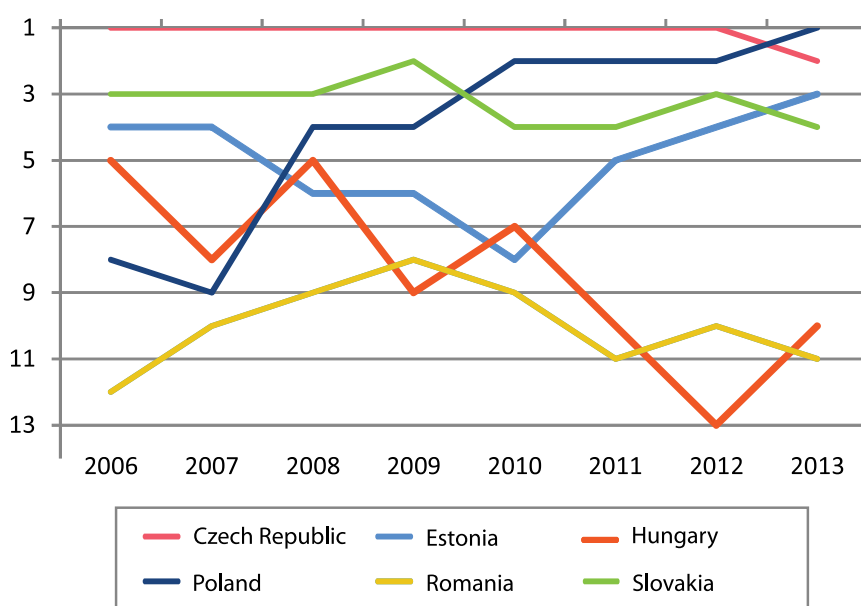
These trend-like negative changes in the Hungarian business climate cannot be considered as mere reflections of the shocks of the global financial crisis and the subsequent European debt crisis. Several other Central and Eastern European countries (the Baltic states in particular) suffered even deeper negative economic effects due to the crises, but in most of these countries the subsequent economic adjustment led to only a temporary deterioration in the business environment. (Chart 3 convincingly illustrates these tendencies by contrasting the perception of the Hungarian business climate with that of Estonia.)

Indeed, the main weaknesses of the Hungarian business environment are related to institutional and perceptual factors shaped mainly by the decision-making practice of the political elite. The latest international comparative survey results of the World Economic Forum point out that most of the critical factors of Hungarian competitiveness derive from the institutional set of indicators such as the low level of credibility and stability of regulations, and the lack of transparency in government policymaking (see Chart

4). Concerning global competitiveness, Hungary is ranked 63rd among the surveyed 148 countries of the world, but regarding institutional factors of the business environment the country ranks typically much lower: along 11 institutional factors Hungary ranks behind the 100th position.

The most problematic features of the Hungarian business environment cannot be simply related to the fact that the country is a relatively new democracy. In this respect, the comparison with the Estonian business environment is especially striking. In Estonia, institutional factors positively offset the weaknesses related to the small market size and certain historical legacies of the Soviet era, while in Hungary the institutional factors of the business environment have negative impacts on the competitiveness of the economy. Though some of these negative features are almost equally present in other Visegrad countries, the particular relevance of the perceived low level of transparency in government policymaking seems to be a Hungarian peculiarity compared to the Czech Republic, Poland and Slovakia. Briefly, comparative international surveys indicate that

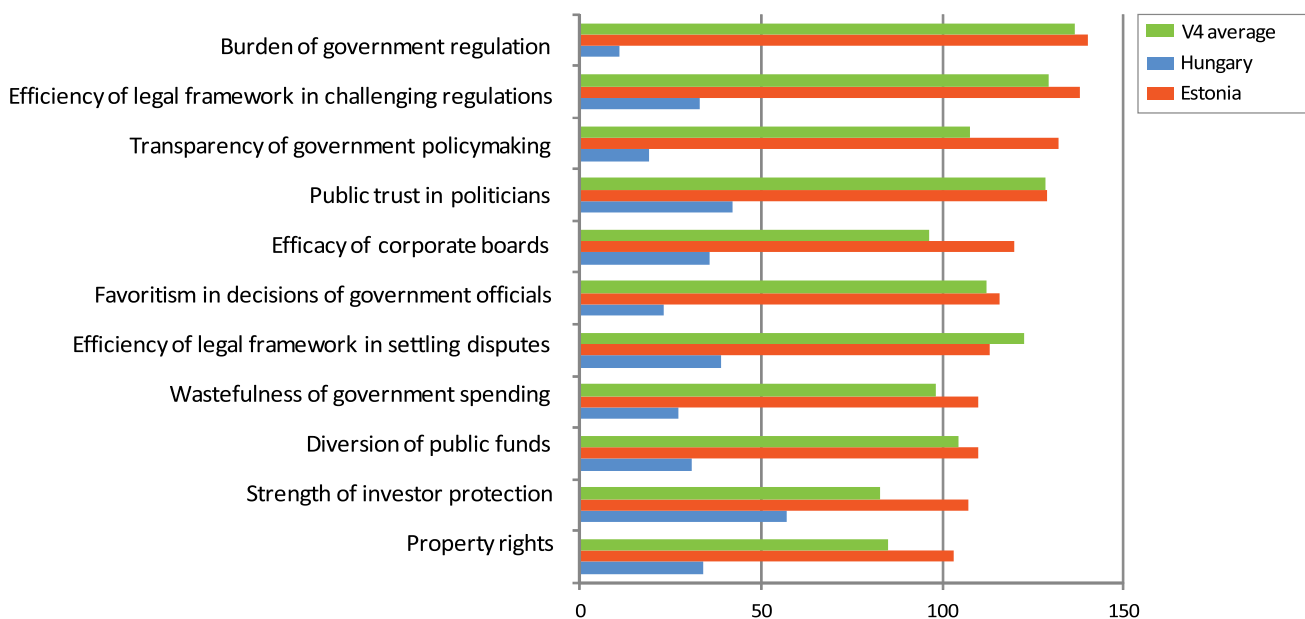
CHART 3
RANKING OF BUSINESS CLIMATE AMONG INVESTORS IN CENTRAL AND EASTERN EUROPEAN COUNTRIES, 2006-2013 (POSITION AMONG 20 COUNTRIES)



Source: DUIHK (German-Hungarian Chamber of Industry and Commerce): AHK-Konjunkturumfrage Mitteleuropa 2013, p. 18

at present, business environment uncertainties in Hungary are not mainly economic in nature; they are rather related to some specific features of democratic policy-making and governed first and foremost by the governing political elite.

CHART 4
MAIN WEAKNESSES IN INSTITUTIONAL QUALITY OF BUSINESS ENVIRONMENT
IN ESTONIA, HUNGARY AND THE VISEGRAD COUNTRIES (RANK AMONG 148 COUNTRIES)



Note: Selected factors of Global Competitiveness Index. Smaller rank position means better institutional quality.

Source: World Economic Forum, *The Global Competitiveness Report 2013-2014*

III.C.3. Political preferences, favoured and punished economic sectors

Political preferences are determined by unilateral decisions in every policy domain, and ideological considerations overrule policy evidences provided by experts, professional associations and civil society actors. These phenomena have direct consequences on applied economic policy measures. In particular, this implies a normative categorisation of businesses present in the Hungarian economy: a distinction between good, 'productive' and bad, 'speculative'

companies along the dimensions of size, ownership and type of activity. Several program documents of the governing Fidesz party as well as press statements of and interviews with Hungarian Prime Minister Viktor Orbán and former minister of national economy (and present governor of the central bank) György Matolcsy affirmed this categorization.²⁹

The introduction of special sectoral surtaxes in 2010 practically transposed the distinction between preferred and dispreferred sectors from the rhetorical dimension explicitly into the field of regulation. Thus

29 See among others: Matolcsy Gy. (2010): Itt az idő, hogy talpra állítsuk a magyar gazdaságot! Nemzeti ügyek politikája, 2010, pp. 24-47. Another example is expressed in an interview on hvg.hu: 'Orbán: remélem, a Hankook elvisz minket magával a jövőbe.' http://hvg.hu/gazdasag/20121127_Hankookmegallapodas

significant sectoral surtaxes were imposed on large companies involved in retail trade, telecommunication and energy sectors as well as financial institutions (for more details see the case studies below). This means that banks and insurance companies, as well as large retail trade firms, telecommunication and energy companies, operate in sectors punished by excessive taxation policies while other companies belong to relatively preferred sectors. Belonging to a favoured sector, however, does not necessarily bring about specific business advantages; it rather means that companies operating in these sectors are less exposed to unpredictable economic policy shifts.

III.C.4. A shift towards upper-level political contacts

Policy contacts between public officials and private companies have become more strongly dominated by political considerations since the 2010 office taking of the incumbent administration. Indeed, in the present Hungarian context, supportive political signals, preferably in the form of an affirmation coming from a top-level political patron or contact, are indispensable preconditions to any chance of success in lobbying activities.

“Lobbying prior to the office term of the present administration was far from perfect, but it worked with some major or minor deficiencies. Today, as the organised fora of dialogue between economic and social partners are no longer working, if you do not have political support from the highest level you cannot hope for any meaningful discussion with public officials about important economic policy questions. And without political support, in this system you can only waste your time: after a longer period of waiting you can perhaps present your problems to a lower-level bureaucrat who has no influence at all on the relevant issues.”³⁰

If certain corporate and/or sectoral representatives or their close informants are not embedded in upper-level political circles then corporate stakeholders can be repeatedly shocked by sudden and unexpected regulatory changes.

“Without high-level political contacts you can remain uninformed about the most important changes in regulation and taxation. The inner political circle closes the information channels very ‘effectively’ and you simply won’t have enough time to adapt properly to shocking changes often voted on Friday afternoon and put into action next Monday.”³¹

III.C.5. New, unconventional forms of communication and informal lobbying

Business actors naturally try to adapt to the changing environment: in their lobbying efforts they shift their focus from bureaucrats and policy experts to members of the political elite. Thus for business actors the main bottleneck under these circumstances is to achieve a supportive political signal. In practical terms this means searching for opportunities to meet with representatives of upper-level political leadership. The uncertain environment and the strong dependence on affirmative political signals has generated some new fora for lobbying. More precisely, some of these are rather anterooms of lobbying, as they do not provide opportunity for a meaningful dialogue but they may trigger future and potentially substantive communication. In this respect we have identified new important informal communication fora:

“Some companies are desperately hunting for opportunities to meet with members of the government. Most of them simply want to speak to political leaders. Thus they are applying to take part in government business delegations and are ready to finance the costs of expensive trips when the prime minister, the minister of national economy and the state secretary go

30 Interview with a top manager of a large multinational company present in Hungary

31 Interview with a representative of a professional association

to Kazakhstan or the United Arab Emirates. This happens even if the particular companies have no intention of building contacts with local businessmen at all. For the same reason, some top managers are regularly visiting boring football matches of the Hungarian first division, even if it is well-known that they prefer water polo, basketball or classical music concerts.”³²

Besides government business delegations and football matches, a third significant and rather unconventional forum of communication has emerged:

“There are firms that are regularly financing or hiring research centres that are either state-owned or closely linked to the government. They are generously supporting more or less relevant studies that they believe the political leadership may find important. Then these companies’ managers hope to be invited to the internal presentation of the findings of these researches financed by them, where members of the governing political elite are also present. It is true that sometimes they are invited, but as far as I know, often they are not.”³³

It is obvious that these unconventional fora encourage shadow forms of lobbying. In addition, the politically driven logic brings about suboptimal market results as lobbying corporate leaders are constrained to dubious investments of extra time and money into costly anteroom meeting points that may accidentally open opportunities for traditional lobbying.

III.D. CULTURAL UNDERSTANDING OF LOBBYING - POLITICALLY-DETERMINED ECONOMIC POLICIES

The business environments of market economies are always somewhat uncertain, deriving from the

inherent nature of markets. Moreover, in periods of global or regional crises, exogenous market shocks evoke further uncertainties that are particularly tangible in small open economies. However, the business environment in Hungary suffers from additional elements of uncertainty generated by political decision-makers:

“Discretionary measures dominate economic policy-making; there are no negotiations with strategic business stakeholders in the process of preparing regulations. Thus sectoral policies are not transparent and they are unpredictable. This practice is, however, conform to the Hungarian idea of ‘political governance,’ which means that economic and other sectoral policies are politically predominated.”³⁴

The Hungarian political elite turned policy-making into a terrain of unilateral decisions, where key political preferences are exclusively set and discretionarily implemented. Independent policy initiatives of civil society actors, policy experts, professionals, or business actors are often not even debated. This practice places democratic principles into doubt and tends to neglect policy evidences, which can easily lead to unpredictable or discriminatory policies in any domain. In rhetorical terms, this approach clearly attaches a negative connotation to the expression of lobbying and it undermines the potential of transparent lobbying. Lobbying is understood as an unjustified pressure for particular business interests.

“I cannot be a lobbyist anymore. Though there was an obvious reluctance by previous government leaders as well towards transparent lobbying, this profession as it is understood by Anglo-Saxon standards has practically died out in Hungary since 2010.”³⁵

32 Interview with a representative of a professional association, confirmed by the interview with a government public official

33 Interview with a top manager of a large multinational company present in Hungary

34 Interview with a top manager of a large multinational company present in Hungary

35 Interview with a representative of a professional association of major transnational investors

III.E. SELF-REGULATION OF LOBBYISTS' ACTIVITIES

Theoretically, effective self-regulation principles and practices of corporate lobbyists and professional lobbying associations may surpass the shortcomings of regulation on lobbying (OECD 2012). In the case of Hungary, however, the perception of permanent uncertainty deriving from political decision-makers has instead triggered a vicious circle between uncertainty, distrust in formal rules and informal business ethics. The punished sectors are essentially paralyzed as for them unexpected future changes in the regulatory framework cannot be treated as rare exogenous shocks but rather as likely, though unpredictable harmful shifts in business conditions³⁶.

Nonetheless, we could register self-regulation initiatives in the favoured fields; multinational companies with German and US ultimate ownership, as well as their professional associations, are the typical initiators and/or creators of bona fide codes of conduct for corporate lobbyists.

In Hungary only one professional association exists as a quasi-lobby association, however the main activities of the Hungarian Public Relations Association (hereinafter referred to as: "HUPRA") are not related to lobbying. The HUPRA provides training and educational services to its member and non-members relating to CSR activities and overall public relation topics, but no ethics training and/or lobbying specific educational services.³⁷ According to the Charter of the HUPRA there is no special reference to lobbying activity or responsible lobbying.

According to the charters of sectorial associations below there are exact references to lobbying activity, but no specific regulations and/or sanctions regarding responsible lobbying. With reference to the charters below lobbying activity remains as the objective and/or the function of the association. Few code of ethics of these association exist. Generally the ethical procedure includes the lobbying activity as regard to the objective of the charter.

PROFESSIONAL ASSOCIATIONS	REGULATIONS ON LOBBYING ACTIVITY
BRITISH CHAMBER OF COMMERCE IN HUNGARY	-maintain relations with non-governmental, governmental organisations and other interest groups and governmental authorities -represent economic, trading and financial interests before governmental authorities, professional, political and non-governmental organisations ³⁸
GERMAN-HUNGARIAN CHAMBER OF INDUSTRY AND COMMERCE	-represent economic interests before German and Hungarian governmental bodies, authorities, and other institutions ³⁹
AMERICAN CHAMBER OF COMMERCE IN HUNGARY	-take a stand on economic policy issues relating to matters pertaining to business associations, especially government decisions; -initiate modification or termination of laws needlessly impeding the operation of business associations; -maintain cordial relationships with Hungarian Ministries ⁴⁰

36 e.g. the forced incorporation of mandatory private pension funds into the state pension system or the sectoral surtaxes

37 The HUPRA was established in 1989 to represent PR specialists' individual, collective, professional and ethical interests in Hungary.

The association's membership is widespread, open for legal entities (companies, NGOs) and for individual members (self-employees and students).

38 Charter of the British Chamber of Commerce in Hungary, Article 2.1.B. b) and e)

Available: http://www.bcch.com/content/BCCH_Charter_2011_EN.pdf

39 Charter of the German-Hungarian Chamber of Industry and Commerce, § 2 Section (2) point 4.

Available: http://www.ahkungarn.hu/fileadmin/ahk_ungarn/Dokumente/Mitgliederbetreuung/Beitrittsunterlagen/UE1_DUIHK_Satzung_hu.pdf

40 Downloaded from the website of the American Chamber of Commerce in Hungary (<http://www.amcham.hu/by-laws>)

PROFESSIONAL ASSOCIATIONS	REGULATIONS ON LOBBYING ACTIVITY
HUNGARIAN PHARMACEUTICAL MANUFACTURERS' ASSOCIATION	represent interests before governmental bodies seeking to create and maintain appropriate and calculable support and pharmaceutical system, represent technical interests before authorities and National Insurance bodies ⁴¹
THE ASSOCIATION OF THE HUNGARIAN AUTOMOTIVE INDUSTRY	-maintain relationship with relevant governmental bodies, -upon request make recommendation of relevant law entering into force ⁴²
HUNGARIAN TRADE ASSOCIATION	-represent interests of members in legislation procedures and before governmental bodies, - maintain constant relationship with the committees of Hungarian Parliament and Ministries and represent interest before governmental bodies ⁴³
HUNGARIAN BANKING ASSOCIATION	-regularly monitoring and influencing domestic, EU and international legislative work affecting credit institutions by using the opportunities offered by the Act on Legislation, representing the interests of the Hungarian banking community ⁴⁴

The perception of uncertainty, however, may have a negative impact on self-regulation initiatives even in favoured sectors as the example of the pharmaceutical industry illustrates:

*"Pharmaceutical companies in Hungary had already developed a code of ethics in the 1990s that was renewed in 2012. That time we also prepared a code of conduct for lobbying, but we eventually postponed it to the uncertain future when the Hungarian economy will already be consolidated."*⁴⁵

Even though there is tangible reluctance on behalf of business actors, we are convinced that lobbying self-regulation can effectively mitigate the consequences of politically generated uncertainties. From a business perspective, these uncertainties cannot be separated from cronyism, where preferential regulations and other state interventions promote favoritism and rent seeking behavior. If rent seeking behavior prevails money-making becomes possible based not on

market performance but on political connections, forcing business actors to seek the grace of the government instead of competing on a regulated market. Fostering ethical and transparent lobbying through self-regulation may however imply major competitive disadvantages as those companies or business sectors who commit themselves to higher ethical standards in their government relations are likely to encounter disgrace. Corrupt governments tend not to award public contracts to business actors who abide legal and ethical norms and refuse questionable business transactions. This is why high ethical standards and the will to resist corruption entail high risks on the level of individual business actors in corrupt and unethical business environments. The risk evoked by strong anti-corruption devotions may however be mitigated if whole sectors of the economy and entire industries combine their efforts and jointly step up against undue forms of making business. Even extremely powerful governments who are determined to assert their will at any rate cannot ignore large

41 Charter of the Hungarian Pharmaceutical Manufacturers' Association, § II.2 points, 1., 3. And 4.

Available: <http://magyosz.org/dokumentumok/2012/Alapszabaly.pdf>

42 Charter of the Hungarian Pharmaceutical Manufacturers' Association, § II.2 points, 1., 3. And 4.

Available: <http://magyosz.org/dokumentumok/2012/Alapszabaly.pdf>

43 Downloaded from the website of the Association Of The Hungarian Automotive Industry

(<http://gepjarmuipar.hu/a-szovetseg/kuldetes-alapszabaly/>)

44 Charter of the Hungarian Trade Association, § 3. points 1./ 1.1. and 1.6.

Available: <http://www.oksz.hu/alapszabaly.htm>

45 Charter of the Hungarian Banking Association, § 2. points b) c) d) f).

Available: http://www.bankszovetseg.hu/wp-content/uploads/2012/09/Alapszab%C3%A1ly_HUN.pdf

segments of the economy. Therefore we encourage market players and their respective professional organisations to apply lobbying self-regulation tools and promote responsible lobbying practices in general. In this respect, self-regulation seems the only solution that could compel the government to normalise its relationship with business actors and cease to further employ arbitrary tools to select from among them.

III.F. WATCHDOGS: THE ROLE OF MEDIA AND CIVIL SOCIETY IN MONITORING LOBBYING

The Hungarian media market has been significantly distorted by political actors and will for long time hindering the emergence of free competition among privately owned media outlets. But the level of partiality has increased from the beginning of the current decade, namely preferring the ruling Fidesz party. As Fidesz got two third of parliamentary seats in 2010, and repeated this election result in 2014, the government policy makers felt empowered to transform the media landscape according to their own interests.

The Fidesz led government fully controls the public-service media and transformed it into government mouthpiece. Public TV and Radio stations echo the government standpoints without almost any relevant critics. Legal framework regulating the state media including the unilateral political nomination of media authority's leadership was several times criticized by the European Commission and still not fully in line with EU's requirements on this issue.

As far as the part of media not controlled by the government is concerned, the term of "soft censorship" seems to be relevant to describe the situation. In the emerging Hungarian state capitalism the government influences the media content

through the distribution of state advertisements and, in several cases, by getting on to the ownership of several outlets or administratively distorting the market by imposing sectoral surtaxes.

According to the media sources, TV2, the second largest commercial TV station was sold to businessmen who might be labeled as Fidesz cronies last year⁴⁶. The channel and the government itself denied this link with the government but a telltale sign is that much more state advertisement landed at TV2 than at the rival RTL Klub.

In June, 2014, the government levied a special tax on media advertisements which is mostly detrimental for the market leader of commercial TV-s, the German owned RTL Klub. This law already in force in June 2014 imposes progressive taxes according to the advertisement revenues. RTL Klub is supposed to pay 40 % of marginal tax rate after its advertisement revenues. The intention of market distortion, i.e. to channel the revenues towards TV2, seems to be obvious in this case.

Allocation of state advertising spending across the Hungarian media is opaque and unfair, and it is based on political affiliation of the outlets, and distorts market competition significantly. According to a recent study⁴⁷ the shares of state advertisement compared to the entire ads income in the leading right-leaning pro-government newspaper (Magyar Nemzet) vs. the leading left-leaning oppositional one (Népszabadság) was 22% vs. 2 % in 2012 favoring the pro-government outlet, so the newspaper leaning towards the opposition was almost deprived of state advertisements. This very share in 2008 when the Left governed in Hungary was 13% vs. 7% preferring the same leftish newspaper to the same rightist one. This evidence clearly shows that the market has been distorted for long time but the level of distortion has been reaching new highs.

46 http://hvg.hu/itthon/20140310_RTL_TV2_mediapiac_harc

47 The study was made by the World Association of Newspapers and News Publishers and the Center for International Media Assistance [file:///C:/Users/martin.jozsef.peter/Downloads/WAN-IFRA_Soft_Censorship_Hungary_Report_\(1\).pdf](file:///C:/Users/martin.jozsef.peter/Downloads/WAN-IFRA_Soft_Censorship_Hungary_Report_(1).pdf)

This section's statements are relying partly on this study.

The biased distribution of the state advertisements is enhanced by some media agencies that have connections to the pro-governments cronies and oligarchs and, according to the market rumors, distribute the advertisements by political preferences. (The same – with other distributors – happened during the socialist-liberal governments between 2002 and 2010.)

Moreover, the emerging crony capitalism creates an atmosphere where non-government (i.e. opposition-leaning or independent) media outlets might face the loss of their advertisement revenue not only from the state advertisements but also from those market players who might consider it risky to advertise in a non-government media.

The distortion of the market, the incorporation of some media outlets by pro-government businessmen, the biased advertising spending and the financially vulnerable editorial teams have an impact on the editorial content in an indirect way (soft censorship). Some journalists are practicing self-censorship and the editors tend to accept it. Meanwhile, the freedom of expression to criticize the government is still prevalent in some parts of the media.

This environment is not favorable for investigative journalism. However, some pieces of it have nevertheless emerged recently. A nice cooperation of a CSO and a media outlet can be shown in the following example even if the story unfortunately ended with the government's violation of the autonomy of free press.

The story is briefly the following. At the end of last year a journalist of Origo.hu, largest Hungarian news portal in terms of unique users owned by Hungarian Telekom (being a 100% affiliate of Deutsche Telekom) revealed a fact that Mr. János Lázár (then State Secretary of Prime Minister's Office, now Minister of PM Office) had spent 2 million HUF (appr. 6600 euros) for three short travels abroad, significantly exceeding the market price of such accommodation and travel costs. As the PM Office declined to answer all the relevant questions on this matter, Origo.hu, more precisely its journalist started a legal case to reveal the relevant public data of these trips with the support of Transparency International Hungary. As the date of the national elections of April 2014 was approaching, the portal and the journalist faced strong pressure from the government side not to publish the details of the lawsuit. Just after the elections the journalist with the legal assistance of TI Hungary won the juridical proceeding in the Court's first instance. To cut the long story short, as the portal resisted to this pressure, the editor-in-chief of Origo.hu was fired followed by a huge efflux of journalist from this portal at the beginning of June⁴⁸.

This story shows how a pro forma independent media outlet (Origo.hu) might face strong political pressure if it writes pieces against the government politicians' interests.

48 Here is a good overview of the whole story in English by an independent news portal called 444.hu:
<http://444.hu/2014/06/05/deutsche-telekom-hungarian-government-collude-to-silence-independent-media/>

IV. REGULATING LOBBYING: TRANSPARENCY, INTEGRITY AND EQUALITY OF ACCESS

IV.A. TOWARDS TRANSPARENCY

The current (and recently re-elected) Hungarian government repealed the Lobbying Act with the passage of Act CXXXI of 2010⁴⁹. Even though the Public Administration Integrity Decree regulates meetings of government officials with lobbyists, at present there is no comprehensive regulation in place on lobbying in Hungary. The Public Administration Integrity Decree fails among others to provide for the mandatory registration of lobbyists or the obligation to disclose or report contacts with lobbyists to an independent control body, nor does it expect civil servants are not expected to ask permission and report back on contacts. As there is no publicly available information as regards the implementation of these flawed measures in practice, the anticorruption impact thereof can be hardly assessed. According to the EU Anticorruption Report published in 2014, this is, at best, a partial solution of the problem: *“The Government decree on the system of integrity management within public administration issued in 2013 obliges public servants to ask prior permission from their hierarchy to meet lobbyists and to also report back on the contacts or outcome of meetings. There is no mechanism in place targeting the monitoring of the implementation of these obligations”* (EC 2014:6).

Procedures leading up to the adoption of legislation adopted by the government or ministers are non-transparent. The law does not require the public consultation of all of these legislative proposals, which make the fast-track passage of clandestinely prepared decrees and resolutions even easier.

The law does not require the publication of a legislative footprint of lobbying, i.e. a report on who lobbied whom and on what purpose prior to adopting the respective piece of legislation. Executive summaries attached to legislative proposals are not accessible publicly, if such a proposal is uploaded on the government’s or the Parliament’s website, a common practice is that these summaries are previously removed as a matter of course. Even though the executive summary does not contain the legislative footprint of lobbying, it includes important information concerning the reasons why the specific legislation was needed. These summaries, as so-called ‘prepping documents’, are deemed non-accessible public data under the Law on Freedom of Information.

IV.B. FOSTERING INTEGRITY

IV.B.1. Declaration of assets and interests

Transparency is the simplest and generally the most effective tool to fight corruption, a reason why TI Hungary has been advocating for a reconsideration of the system of asset and interest declarations of politicians and other public officials for long. The current system, though it is based on legal prescriptions obliging a reasonable circle of public employees to declare their assets and business interests, fails to make politicians’ and public decision makers’ enrichment transparent and publically accountable, as recent asset-declaration scandals of Marcell Zsiga⁵⁰ (Fidesz) vice-mayor in Miskolc, and Gábor Simon⁵¹ (former MSZP MP, accused of forgery and financial misstatement) and Antal Rogán⁵² (head

49 As the explanation attached to Act CXXXI of 2010 indicated, based on the “experience from the years following its introduction, the Lobbying Act has not lived up to the expectations, because only a negligible number of lobbying events have been reported, and the rules were generally ignored.”

50 http://korrupcio.blog.hu/2013/02/27/hatha_majd_rubovszky

51 <http://nepszava.hu/cikk/1018383-csak-a-valasztasokig-porgettek-simon-gabor-ugyet>

52 <http://www.origo.hu/valasztas2014/20140331-rogan-antal-a-garazsat-is-kifelejtette-a-vagyonbevallasabol.html>

of Fidesz Parliamentary group and until October, mayor of Budapest's 5th district) have demonstrated.

At present, the circle of those obliged to declare assets is narrower than it should be, and only members of the Parliament and most senior public officials, such as ministers, vice- and undersecretaries of state, chief justices, and the prosecutor general are expected to make their declarations publicly available. The declarations' content and the value of the assets declared are not examined by any competent authority and the declarations are not adequately verified. Lack of sufficiently deterrent sanctions applicable to false declarations facilitates misstatements, politicians' and other public officials' negligence to declare the origin and value of their assets goes unpunished; they can exculpate themselves by simply referring to unintentional obliviousness. Citizens' growing mistrust in politics is fuelled by the general experience that those obliged by law to declare their assets and interests are not held against the same standards as ordinary people, whose misrepresentation to the tax administration result in serious audits.

A disappointing experience is that under current legislation public officials with a local jurisdiction, such as for instance mayors, vice-mayors and municipal representatives, who in Hungary easily escape the attention of the national media, are not obliged to publish a yearly report on their assets, neither to disclose a declaration of their business interests. The same feeble publicity measures apply to judges of law courts, prosecutors and managers of public assets and funds. These public employees are only compelled by the law to submit a declaration to their hierarchy, where office superiors have a wide discretion how to address questionable enrichment allegations or a suspected illicit enrichment case⁵³.

To foster integrity and accountability in the public domain, in line with what TI Hungary and other reliable civil society organisations in the anti-corruption field have been recommending⁵⁴, a publicly accessible electronic database of searchable and comparable asset declarations that are edited in a user friendly format ought to be set up, the circle of those obliged to publish such a document should be expanded, and assets declared needed to be regularly compared to reality. For the sake of effectiveness, this envisioned new system of assets and interest declaration should be topped by harsher sanctions for missing or false declarations, and intransigent enforcement of revolving door-rules.

IV.B.2. Revolving door and conflict of interest rules

Transparency International Hungary has long since criticized the country's absent revolving door and post-employment conflict of interest regulation⁵⁵. Changing sides between business and public service may happen unhindered, no cooling off period is required, which exhibits a clear corruption risk in the lobbying field. Moreover, there is no general legal prescription to prohibit public officials from having a second employment in the business sphere. A clear cut legal barrier exists only in the highest ranks of public service, such as members of the government (ministers, vice- and undersecretaries of state), who may not have any second job, unless in the academic sphere. The same prohibition applies to the judiciary, i.e. judges, justices of the law courts and high courts, constitutional court justices and prosecutors are also banned from having a second employment of whatsoever kind, save in the academic branch.

However the vast majority of public officials are allowed to have a second employment, unless this would be in clear conflict with their public duties. The

53 The only recent case when a public official had to resign due to illicit enrichment charges happened in December 2013. The public official concerned was a judge of a law court trying insolvency cases. However there are no publicly available information, as to whether any non-labour law consequences, such as a criminal investigation or an asset recovery procedure followed. See: http://korruptio.blog.hu/2013/12/02/talan_megis_jo_valamire_a_vagyonylatkozati_rendszer

54 <http://www.ezaminimum.hu/>

55 http://www.transparency.hu/uploads/docs/revolving_door_final.224.pdf

relevant laws say that the public officials' hierarchy should judge, whether a second employment endangers the impartial and unbiased functions of the public official. The same standard applies to business employees, i.e. the employee's administrative leader is entitled to permit a second employment. There are no written rules how administrative leaders of either public service or business employers are supposed to decide if a second employment poses a risk of corruption or bias. As state owned enterprises, hire business employees, this is just as much a corruption risk in business relations as in the case of public officials.

In sum, there is no legal barrier to prevent public officials or business employees from having a second employment that has a risk of corruption.

IV.B.3. Codices of conduct and ethics

A different dimension of public integrity relates to ethics of public service, a terrain that has for long fell into disinterest until in 2012 the government endeavored the adoption of codices to govern ethics procedures. As a consequence, both the police and government employed civil servants adopted their respective codes of professional ethics in 2013. TI-Hungary welcomed the introduction of these soft-law instruments, however remained critical because of the very limited professional debate preceding the adoption and the government's reluctance to properly answer civil society recommendations vis-à-vis the content of the codes concerned.

Based on these codes both the Police Board and the Public Officials Board elected ethics commissions, respectively, for the oversight of the codes and to resolve on ethical disputes. However it has to be noted, that none of the boards referred to here are voluntarily elected bodies, but instead manned on the

bases of mandatory membership. The selection of their members remained obscure, independence and impartiality of the members are not guaranteed. There is no independent ethics procedure either to uncover breaches of the codices. As a result, both codices of conduct fail to introduce an ethics oversight procedure that meets the requirements fairness. The examination of suspected breaches of ethics remains therefore within the jurisdiction of the hierarchy, thus putting hopes of real change in this field to a sad end.

IV.C. EQUALITY OF ACCESS: LEVELLING THE PLAYING⁵⁶

Acts CXXX and CXXXI of 2010 govern the legislative process in Hungary. Though both laws set out a number of institutional safeguards to maintain democracy in the legislative terrain, they fail to address legislative corruption. The laws provide for compulsory public and expert consultations prior to bringing legislative proposals to the Parliament, but no deadlines are prescribed for the consultation process, therefore ridiculously swift, spurious consultations also meet the legal requirements. No rules are included as to how different opinions that are expressed in the consultative process shall be incorporated and there is no burden on the government to give a detailed, written explanation to the consulted partners that highlights which opinion and on what bases have been adopted and which have been set aside. These laws do not prevent the government from arbitrarily selecting certain partners to involve as consultants in the legislative process, such selection need not to be publically explained.

Moreover, the law does not forbid fast track and extraordinary ('priority') legislation, where not just the consultation phase maybe skipped, but the adoption in the Parliament also lacks any meaningful political

⁵⁶ With special regard to the peculiarities of the Hungarian lobbying landscape and to state capture and cronyism, as indicated above, it was not possible to provide lobby 'case studies' fully in line with the expectations of the project description. However, there have been signs of legalizing corruption in Hungary, which resulted in tailor-making a number of laws to arbitrarily favour certain individuals or businesses. Except for a single case it was not possible to establish who lobbied whom and what lobbying tools were employed. Beneficiaries of tailor-made legislation aren't held to the same standards as ordinary businesses, a reason why TI-H is convinced that these are signs of both corruption and misuse of public power.

debate. Final vote in Parliament may occur on the day of submission of the legislative proposal. Legislative proposals introduced by individual MPs are exempt from consultation, which means that virtually no public or political debate precedes the adoption of legislative bills brought in by members of the Parliament.

Two out of three case studies included below are related to the random taxation of certain industries, in particular the financial and the retail trade sectors. Two cases illustrate how certain business actors managed to get exemptions from specific sectoral surtaxes introduced by the government during the fall of 2010. A third case study sheds light on how the regulatory power of the government is employed to promote individual business interests.

IV.C.1. First case study – The retail trade case

The government, by adopting Act XCIV of 2010, levied sectoral taxes inter alia on the retail trade sector. Retail companies with annual revenue exceeding HUF 500 Million (approx. EUR 1.7 Million) were required to pay a sectoral surtax. The so-called ‘supermarket tax’ was based solely on the presumption that retail trade chains undeservedly gained extra profits. The extra tax adversely affected larger supermarket chains compared to smaller-sized retail chains structured in a decentralized way. The latter ones were exempted.

The law to impose extra taxes on retail trade was introduced in the form of an individual MP motion to the Parliament, which is an unusual way to bring in tax laws. The process lacked any prior public consultation or social debate and stakeholders were deprived of any opportunity to express their views. In an amendment, Parliament’s committee on budgetary affairs rewrote the proposed law, introducing provisions as indicated above to favour smaller-sized, Hungarian-owned franchise-operated retail chains with a decentralized ownership structure. This amendment also lacked any prior public consultation. The law and the amendment attached thereto were adopted on the day of their proposition.

There is grounded suspicion to believe that the ‘CBA’ franchise-operated retail trade chain benefited most strongly from the exemption. The law resulted in direct competition advantages on behalf of ‘CBA,’ a Hungarian-owned franchise chain and a market player said to have very close ties to the government, which is why this case is judged by many as an example of market distortion⁵⁷.

IV.C.2. Second case study – The financial sector case

The financial sector case

Parallel to taxing certain industries, the government levied an extra tax on the financial sector as well by adopting Act XC of 2010 in July 2010. The law expected certain financial institutions, among others banks, savings cooperatives and insurance companies to pay an extra tax based on their yearly turnover. A prominent Fidesz politician and then mayor of downtown Budapest introduced a motion to amend the law so as to exempt insurance companies founded in 2007 or later from the extra

57 Megszorongatja az áruházláncokat a különadó, origo, 2010. október 16. (<http://www.origo.hu/gazdasag/hirek/20101016-a-magyar-telekom-es-a-mol-fizeti-a-legnagyobb-reszt.html>),

A nagyság átka a hipermarketeken, NOL, 2010. október 16. (http://nol.hu/gazdasag/20101016-a_nagysag_atka_a_hipermarketeken)

taxation. An insurance company named 'CIG,' at that time controlled and co-owned by Mr. Zsigmond Járai, former governor of the National Bank of Hungary and Minister of Finance in the first Orbán administration from 1998 to 2001, happened to be founded in 2007. The proposed amendment was said by many to have been aimed at exempting insurance company 'CIG' from the so-called 'financial surtax'⁵⁸.

Neither the law to impose an extra tax on the financial sector, nor the amendment proposed to exempt insurance company 'CIG' were debated publicly prior to their adoption. Due to harsh criticisms formulated by the European Commission and the International Monetary Fund, the amendment to favour insurance company 'CIG' was later repealed⁵⁹.

As Mr. Zsigmond Járai was regarded to be a political ally of Prime Minister Orbán⁶⁰, the failed attempt to exempt a player of the financial market belonging to his business interest seemed to be proof of favouritism.

IV.C.3. Third case study – The tobacco retail scandal

The Hungarian government has had unquestionable accomplishments in the area of tobacco control, such as extending the ban on public smoking and the strong enforcement of this ban. As part of the alleged endeavour to further enhance tobacco control in Hungary, the Parliament adopted Act CXXXIV of 2012 on tobacco retailing (hereinafter referred to as Tobacco Retailing Act), which entered into force on July 15, 2013.

Grounded concerns suggested that the alleged aim to limit smoking among young people served only as an excuse to introduce the new regime of tobacco retailing, which redefined the legal and economic framework of tobacco retail licenses on the basis of nationalizing tobacco concessions. Between March and April 2013, the government launched a tender to redistribute tobacco retail licenses. As a result of the redistribution, the number of tobacco selling points in the country decreased from approximately 40,000 to 5,000. Reportedly, many of the licenses went to retailers politically loyal to the governing Fidesz party⁶¹. This process provoked strong voices of doubt and obstruction in media and public discourse. The details of the tender⁶² have remained closed to the public, which gave rise to corruption concerns. In addition, following the reallocation of retailing licenses, the government significantly increased the rate of return on tobacco products, thus turning tobacco retailing into a lucrative business. This was perceived by many as clear proof of legalised rent-seeking.

In April 2013, journalists uncovered that a previous version of the Tobacco Retailing Act, submitted on February 16, 2013 to the European Commission in the framework of a so-called notification process, had been drafted on a computer belonging to Mr. János Sánta⁶³, chief executive officer of Hungarian

58 Kit szeretget meg Orbán Járai helyett? Itt a válasz!, Hírszerző, 2010. július 22., http://hirszerzo.hu/profit/2010/7/22/159793_kit_szeretget_meg_orban_jarai_helyett_itt_a

59 http://index.hu/gazdasag/magyar/2010/07/23/orankent_valtozott_lesz-e_lex_jarai/

60 He currently chairs the supervisory board of the National Bank of Hungary, before he was minister of finance during the first, i.e. 1998-2002 Orbán-government, in 2001 he was nominated as Governor of Central Bank by then prime minister Viktor Orban.

61 <http://www.politics.hu/20140512/court-orders-release-of-tobacco-retail-tender-documents/>

62 <http://advocacy.globalvoicesonline.org/2013/05/08/hungary-government-limits-foia-transparency-law/>

63 http://hvg.hu/itthon/20120227_lazar_dohanylobbi

tobacco company Continental and chair of the Federation of Hungarian Tobacco Investors, or the 'tobacco lobby.'

Mr. János Sánta denied that he had drafted the entire text of the Tobacco Retailing Act but admitted his involvement in continuous consultations.⁶⁴ Mr. János Lázár, then head of the parliamentary group of the governing Fidesz party and mayor of Hódmezővásárhely, the town where Continental tobacco company is seated, promoted the Tobacco Retailing Act in Parliament and also admitted the involvement of Mr. János Sánta in the legislative process⁶¹, but similar to him contested that the Tobacco Retailing Act was the product of a particular group of the tobacco industry.

Investigative journalists found in June 2013 that some 500 tobacco retailing licenses out of a total number of 5,061 went to companies connected to Mr. János Sánta or belonging to the interest group of Continental tobacco⁶⁵. In his comment, Mr. János Lázár, who acted as minister of state in charge of the Prime Minister's Office is perceived the most influential member of the 3rd Orbán government that started its term in the beginning of June 2014, said that the Tobacco Retailing Act admittedly aimed at improving the business environment of Hungarian tobacco companies⁶³. Beside Mr. János Lázár, other influential government politicians also supported Continental tobacco, one of the biggest winners of the whole process. For instance, Mr. József Dancsó, current president of the Hungarian State Treasury, used to serve as a member of Continental's supervisory board.⁶⁶

TI Hungary judged the reshaping of the tobacco market a major corruption scandal that entailed both rent-seeking and favouritism and helped influential individuals gain public money through intentionally designed and professionally managed channels. Journalists and civil society organisations, among others TI Hungary, have initiated legal steps in court to get access to information regarding the reallocation of tobacco retail licenses and the process of selecting the winners.

The new environment of tobacco retailing has had a controversial impact on the tobacco market, as research findings indicate huge growth in the illegal trading of tobacco products.⁶⁷ It seems therefore that the redistribution of tobacco retailing licenses was not only a corrupt act but also contributed to the expansion of the black market of cigarettes. Nevertheless, the World Health Organisation (WHO) presented its 2013 World No Tobacco Day Award to Hungarian premier Viktor Orbán; clear evidence that this international organisation did not feel disturbed by the broader context of the Hungarian government's moves in the arena of tobacco control.

64 <http://www.168ora.hu/itthon/dohanykoncesszio-continental-trafikbotrany-santa-janos-114768.html>

65 <http://vallalkozoi.negyed.hu/vnegyed/20120227-trafiktorveny-dohany-kiskereskedelem-lazar-szerint-a-fidesz-irta-javaslatot.html>

66 http://hvg.hu/gazdasag/20130620_500_trafik_egyetlen_kezben_trafikmutyi

67 <http://www.origo.hu/itthon/20130424-lazar-janos-segitoje-jol-jart-a-dohanyboltokkal.html>

68 http://nol.hu/gazdasag/20120227-brusszel_elnyomja_a_cigitorvenyt_-1300320

69 Based on a study carried out by GfK Hungária

http://index.hu/gazdasag/2013/09/19/durva_novekedes_a_cigaretta_feketepiacon/

V. STRATEGIC PARTNERSHIP AGREEMENTS AND LOBBYING

The contextual analysis underlined that at present Hungary lacks an adequate regulation of lobbying. In addition, comparative surveys have found that the general business environment in Hungary is uncertain and a significant part of the uncertainties derive from the perception of unpredictable government policymaking that adds to market-generated economic uncertainties. Thus in this section we intend to address the issue of lobbying in an uncertain business and political environment. We seek to explore empirically the types and mechanisms of lobbying practices in Hungary at present and understand the particular role of Strategic Partnership Agreements. In this respect, we consider SPAs as specific products of government-business relations in order to mitigate business environment uncertainties.

V.A. THE RATIONALE OF STRATEGIC PARTNERSHIP AGREEMENTS IN THE HUNGARIAN CONTEXT

This empirical section focuses on the particular role of Strategic Partnership Agreements in the present Hungarian context of lobbying. As we described above, the SPAs can be understood as specific policy measures in a business environment where in addition to traditional market risks there are also tangible and unpredictable political risks.

By 2012 both the government and the large multinationals who are key actors in the Hungarian economy had been suffering from the negative impacts of the uncertain business climate. In contrast with most other countries of the region that already registered positive growth rates, the Hungarian GDP again declined by 1.7% and a convincing recovery seemed uncertain. The temporary postponement or outright cancelling of previously planned

investments of multinationals were not offset by any strong investment on the part of domestic SMEs, who are supported in government rhetoric but remain financially vulnerable, thus the Hungarian economy was suffering from an extremely low rate of investment. The government was forced to readjust its politically driven normative distinction between good and bad companies, or at least to convince the assumed 'good multinationals' operating in manufacturing sectors to keep their production and restart their investment activity in Hungary. This generated an important shift in the focus of the government's investment promotion policy towards encouraging reinvestment of multinationals already present in the country:

"We had to react to the fact that the majority of decision-making centres at large companies in the manufacturing sectors (e.g. automotive industries) are not in Hungary. However, we found an important investment market niche and turned our policy focus to the reinvestment of profits at affiliated companies working in Hungary. We had to convince them that it is worth it to reinvest in Hungary as we guarantee a sound and safe business environment".⁷⁰

The unpredictable business climate of those days was obviously detrimental for large multinational companies. In this respect, it is noteworthy that multinationals often hire Hungarian nationals to manage their local affiliates in Hungary. Several of our interviewees underlined that many of the locally embedded Hungarian top managers might have strong personal interests in improving the relative position of their local business unit among the multinational group's affiliated companies as viewed by their head office. Thus local representatives of multinationals were also seeking methods to improve

⁷⁰ Interview with a high policy level government official

the mood of the Hungarian business environment as well as their relations with the government in order to mitigate the harmful consequences of low investment and production activity.

“We wanted to declare that we were not at war with the Hungarian government. We intended to return to a normal process of negotiations. We were seeking to rebuild normal communication fora to share our policy visions, as dialogues are essential for both major companies and responsible governments.”⁷¹

Accordingly, by 2012 both the governing political elite and the major corporate actors present in Hungary had a clear interest in breaking the impasse: restore dialogue, reinstate communication channels and reopen previously blocked corporate lobbying opportunities. The SPA was dedicated to fill this functional policy niche.

V.B. PROCEDURAL AND SELECTION FEATURES OF STRATEGIC PARTNERSHIP AGREEMENTS

Though officially the interested companies initiate SPA negotiations themselves, in practice this has been rare and typically senior government officials took the lead. However, we have identified some cases where companies (considered originally to be less-welcome multinationals belonging to punished sectors) initiated the negotiations and were able to reopen the previously paralyzed lines of communication and finally conclude SPAs.

The SPA negotiation processes are obviously supported at the highest political level. In most of the cases, the highest-ranking government officials (at least state secretaries, often ministers or in several cases the prime minister himself) are the chief negotiators on the government side and, accordingly, the chief executive officer on the company side. This underlines the predominantly political nature of the SPAs.

From a policy perspective, the strategic agreements do not contain strong explicit economic requirements: if a company meets the criterion of size (i.e. it is large enough) then in the Hungarian context it practically completes the requirements for minimum employment and the minimum share of domestic suppliers as well.

Nevertheless, the export share criterion, though it is formulated in a vague way (“significant contribution”) essentially provides a powerful tool for sectoral preferences. It automatically favours manufacturing companies while the export criterion logically disprefers most of the companies in service sectors.

⁷¹ Interview with a top manager of a large multinational company present in Hungary

Process and partner selection criteria of Strategic Partnership Agreements

Officially, Strategic Partnership Agreements (SPAs) are initiated by those companies that can be potential participants based on a set of five major criteria defining strategic corporate actors in the Hungarian economy. The effective negotiation process of a particular SPA may start only after the approval of the Minister of National Economy. If the negotiation process is successfully completed, prior to signing, each individual SPA has to be published in the form of a government decision in the Hungarian Official Journal.

The potential corporate partners in SPAs should correspond to the following criteria:

- 1) Long-term commitment: operation in Hungary for at least five years;
- 2) Significant contribution to the growth of Hungarian GDP and exports;
- 3) Significant investment activity in Hungary: minimum investment of HUF 5 billion and significant additional investment plans by 2014;
- 4) Significant contribution to Hungarian employment:
 - Minimum number of 1,000 employees;
 - New employment opportunities provided mainly to qualified workers;
 - Further advantage if the company provides significant training opportunities;
- 5) Domestic supplier criterion: minimum 10% of the value of all supplied materials should be provided by Hungarian companies.

Source: Ministry of National Economy

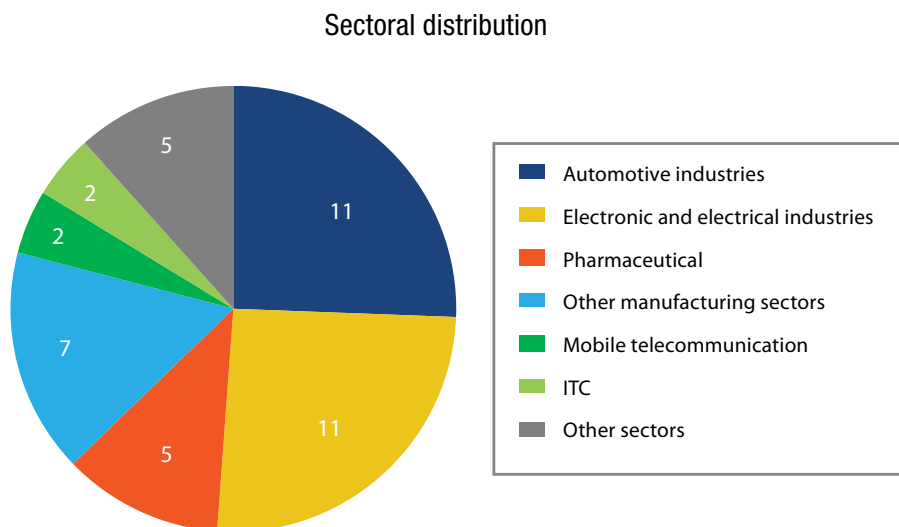
V.C. COMPOSITION OF COMPANIES INVOLVED IN STRATEGIC PARTNERSHIP AGREEMENTS

The sectoral distribution of the companies involved in Strategic Partnership Agreements largely reflects the government's economic policy preferences. The vast majority, 34 out of the 43 companies, operate in manufacturing sectors; the two leading branches are automotive industries and electronic and electrical industries.⁷² Pharmaceutical companies are also strongly represented; the peculiar feature in this

branch is that four of the five selected pharmaceutical companies have considerable Hungarian historical roots (even if at present they belong to multinational companies) and the fifth pharmaceutical company is under dominant Hungarian ownership. The only other company with dominant Hungarian ownership belongs to the logistics sector.

⁷² A detailed list of SPA companies is attached in the Annex.

CHART 5
SECTORAL DISTRIBUTION OF 43 COMPANIES INVOLVED IN STRATEGIC PARTNERSHIP AGREEMENTS
(JULY 2012 – APRIL 2014)



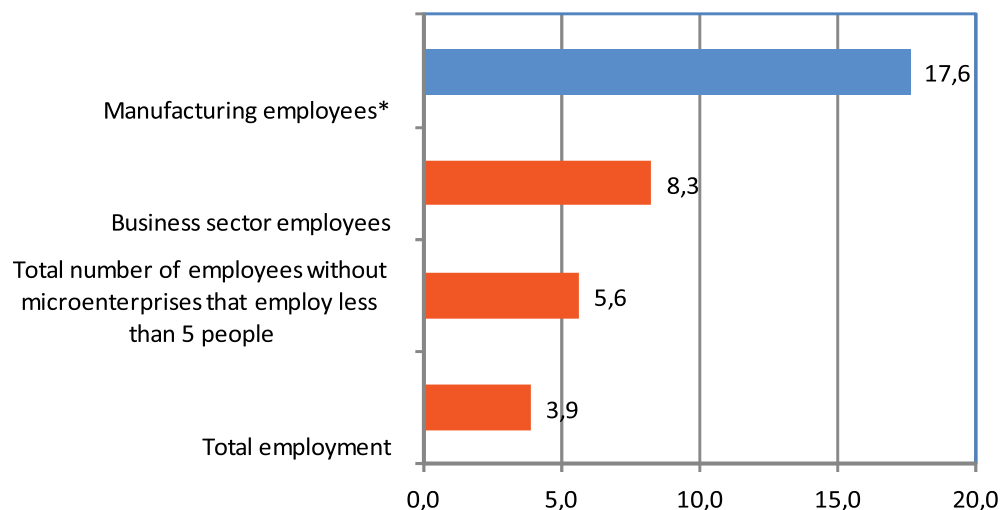
Source: collection from corporate reports, DUHK database and press releases

The SPA list, in a negative manner, also reflects the dispreferred sectors: financial companies are completely missing from the list while there is only one single retail trade company and one sole energy provider. From this perspective, the odd men out are two large mobile communication service providers, who, despite belonging to the punished sectors – as sectoral surtaxes imposed on them clearly indicate – are among the strategic partners of the government. In order to understand the significance of SPAs in national economic policy, it is useful to estimate the weight of these companies in the Hungarian economy. From an economic policy perspective the two most important indicators are the contribution of SPA companies to employment and the potential of exports. The total number of people employed by SPA companies is estimated at around 150,000⁷³. If we compare this number to the total Hungarian

employment figure, we might have the impression that SPA companies represent a fairly moderate share (4%) in national employment. However, this indicator would certainly underestimate the employment role of SPA companies, and not only because of the spillover effects. As Chart 6 shows, calculated from employment data of the year 2012, SPA companies represent slightly more than 8% among Hungarian private sector employers and in manufacturing industries they directly provide 18% of the sectoral employment. Moreover, according to our estimation, SPA companies cover approximately 90% of employment in the pharmaceutical sector, 37% in automotive industries and 47% of electronic and electrical industries. Thus in these three manufacturing branches they represent an outstanding share in sectoral employment.

73 Calculated from TOP 200 data collected by Figyelő, Hungarian economic weekly for 2012.

CHART 6
EMPLOYMENT SHARE OF COMPANIES INVOLVED IN STRATEGIC PARTNERSHIP AGREEMENTS IN 2012 (%)



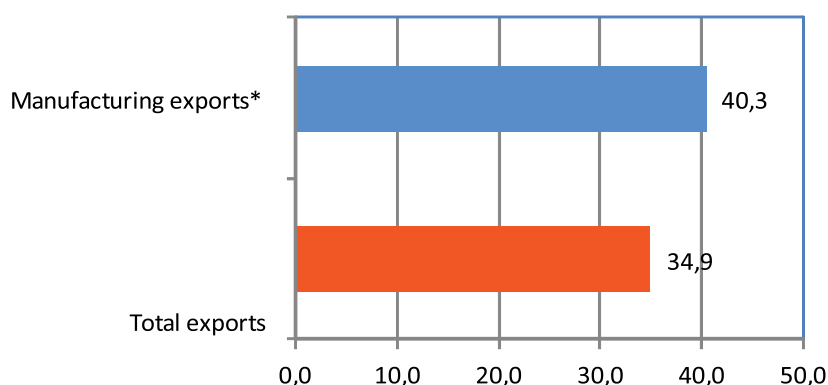
* Share of manufacturing companies involved in SPA

Source: calculated from data provided by 2013 Figyelő TOP 200 statistics and Central Statistical Office, Hungary

The role of SPA companies is particularly important in the export potential of the economy. As the manufacturing sector produces approximately 85% of total Hungarian export sales and the main sources of economic growth are still exporting multinational companies, the activity of large manufacturing

enterprises is crucial for the prospects of national development. In this respect, SPA companies cover a significant part of the Hungarian corporate sector: the share of SPA companies is slightly more than 40% in manufacturing exports and it covers 35% of total Hungarian exports.

CHART 7
EXPORT SHARE OF COMPANIES INVOLVED IN STRATEGIC PARTNERSHIP AGREEMENTS IN 2012 (%)



* Share of manufacturing companies involved in SPA

Source: calculated from data provided by 2013 Figyelő TOP 200 statistics and Central Statistical Office, Hungary

V.D. STRATEGIC PARTNERSHIP AGREEMENTS AND THE CORPORATE LANDSCAPE OF LOBBYING POTENTIAL

The Hungarian government has apparently succeeded in separating the economic policy importance of corporate actors from their lobbying potential. While SPA involvement fairly reflects the strategic weight of companies in the manufacturing sector (considered a favoured sector), and by their lack or underrepresentation the SPA list also indicates the punished sectors (energy, finance, retail trade), it does not contain those companies that according to investigative media reports are considered to be the politically closest allies of the governing political elite. Accordingly, the SPA list cannot be considered as a clear indication of unfair lobbying or corruption potential. Most of the usual winners of Hungarian

public procurement tenders and the lobbies that were explored by our case studies are missing from the SPA list; indeed none of the companies assumed to belong to the inner circle are SPA companies. SPA involvement instead collects those large companies that through their strategic agreements hope to be included in the ingroup of companies that can minimize the unpredictable politically generated risks in their business operations. Among the large companies absent from this list, there are two different sets of companies: on the one hand, the inner circle group, and on the other, the outgroup: the companies that are more exposed to unpredictable political risks in their business operations. Based on media reports as well as on our own case studies and interviews, the following table illustrates with individual examples the corporate landscape of lobbying potential in the Hungarian economy:

TABLE 1
Illustrative examples of the Hungarian corporate landscape of lobbying potential.
Inner circle, ingroup membership efforts by SPA and outgroup members

Sector	Inner circle	Ingroup (efforts to ingroup membership by SPA)	Outgroup
Manufacturing		Siemens Zrt.	
Energy		Dalkia	E:ON Hungária
Construction	Közgép		
Retail trade	CBA	Tesco-Global	Spar Magyarország
Business services	Vivaki Hungary Kft.	Magyar Telekom	SODEXO Magyarország
Finance	CIG Pannónia		Raiffeisen Bank

Sources: investigative media reports, presented case studies and own interviews

Thus an important finding is that SPA involvement does not inform us about the most powerful lobbies in the Hungarian economy. Companies belonging to the inner circle follow their lobbying practices outside of the scope of SPAs. For business actors, Strategic Partnership Agreements have a different functional role, as is further elaborated in the following chapter.

V.E. MAIN FUNCTION OF SPA: POSITIVE SIGNAL FOR COMMUNICATION AND POLICY NEGOTIATIONS

SPAs are prewritten contracts whose terms refer to a large extent to the SPA criteria cited above. Some small differences between the content of each SPA can be noted as the government tends to envisage different advantages in line with the specific needs and preferences of SPA companies. Nonetheless, SPAs seem to entirely lack any concrete and enforceable provisions, instead encompassing a series of pledges made by SPA companies to express their commitment to cooperate with the government.

Almost each of our interviewees underlined that the main direct effect of the SPAs are related to the PR events:

“We organized an enormous PR event around the signing. It was a win-win. The government could present that they are negotiating and are able to reach agreements even with some of the so-called ‘bad multinationals,’ while we could restart meaningful negotiations about strategic policy issues.”⁷⁴

The SPA proved to be a perfect policy tool for expressing the preferences of the Hungarian government. On the one hand, the government was able to reinforce the sectoral signals driven by its political ideology, but it also presented its ability to govern in a seemingly business-friendly manner.

While some of our interviewees said about the SPAs that

“they do not provide specific commitments and only contain vague hopes,”⁷⁵

most of our interviewees underlined that the SPA is much more than a mere one-off PR event. All of

our respondents who represented SPA companies considered that thanks to the negotiation process they were able to restart the previously blocked channels or establish more effective and meaningful ways of communication.

“Before the SPA some doors were simply not open for us. We received only late, formal and empty answers to our e-mails, there were no negotiations about the strategic issues of the sector. Now we can have meetings and although there are still some important misunderstandings between the government and us, we are discussing them in a friendly and positive tone, concentrating on the policy questions.”⁷⁶

Indeed, our interviews explored the paradoxical nature of the SPAs; we can interpret them as a positive political signal that normal policy negotiations can work in an efficient manner and build a certain level of mutual trust among the negotiating partners. Moreover, several interviewees stated that when the government experts receive the proper signal in the form of an SPA, subsequent policy negotiations occur in a professional context that they did not experience under previous administrations.

“Today, negotiations about crucial policy issues for us are happening at a much more professional level than before. Policy bureaucrats of the government are generally more educated and they understand the logic of business actors. Of course, there is no guarantee for anything, but at least communication is smooth and professional.”⁷⁷

⁷⁴ Interview with a top manager of a large multinational company present in Hungary

⁷⁵ Interview with representative of a professional association of major transnational investors

⁷⁶ Interview with a top manager of a large multinational company present in Hungary

⁷⁷ Interview with a top manager of a large multinational company present in Hungary; the same opinion was expressed by a representative of a professional association of major transnational investors.

V.F. SPA AS A LOBBYING TOOL

The SPA provides different lobbying opportunities to the companies of the favoured manufacturing sectors (e.g. pharmaceutical companies) and the previously punished companies of certain service branches (e.g. companies of the telecommunication sector that have to pay specific sectoral surtaxes). As we mentioned, SPAs themselves are not lobbying tools, but they open the opportunity for future lobbying.

“It is not clear what the exact role of the SPA was in an issue that was key for us, the maintaining of R&D incentives. But after signing it, we were able to achieve that the direct costs of R&D activities remain deductible from the corporate tax base.”⁷⁸

While the indirect role of the SPA could be the provision of conventional lobbying mechanisms for the companies in the favoured sectors, it created an opportunity to prevent some (further) hostile regulations, or at least to negotiate about them for the companies in the punished sectors.

“The government intended to set up a state-owned competitor on the Hungarian market. After the negative impacts of changing regulations and the sectoral surtaxes, this would have meant an irreparable decline in the profitability of our company. We had to find some solution. True, it was a fairly expensive solution for us. But thanks to the SPA negotiations we have at least received some guarantees against future adverse policies.”⁷⁹

These processes indicate that in the present Hungarian context SPAs cannot be considered as a particularly harmful construct that supports irresponsible and shadow lobbying practices or provides unfair advantages in taxation or regulation for the participating companies. Indeed, SPAs could rather contribute to a gradual normalisation of the communication channels and strategic policy negotiations among government policy representatives and business actors.

⁷⁸ Interview with a top manager of a large Hungarian corporation

⁷⁹ Interview with a top manager of a large multinational company present in Hungary

CONCLUSION AND RECOMMENDATIONS

This report intended to map the main mechanisms of lobbying practices in Hungary where lack of transparent regulation and discretionary policy measures are shaping relations between business actors and the government. The overview of the regulatory and cultural context explored some controversial attitudes of stakeholders towards lobbying regulation in Hungary: while the lack of regulation was mentioned among the major shortcomings of the present lobbying environment, the previously existing lobbying regulation (repealed in 2010) was considered as a largely ineffective policy tool.

The current uncertain policy and business environment apparently does not favour new and comprehensive regulatory changes. Comparative international surveys indicate that business environment uncertainties in Hungary are mainly related to the lack of transparency in government policymaking. Policymaking has been dominated by unilateral decisions; the political elite set key political preferences exclusively and implement them discretionarily. Independent policy initiatives of civil society actors, policy experts, professionals and business actors are often neglected. This practice places democratic principles into doubt and tends to set policy evidences aside, which can easily lead to unpredictable or discriminatory policies in any domain.

Among others, this has implied a normative categorisation of businesses present in the Hungarian economy: a distinction between good, 'productive' and bad, 'speculative' companies along the dimensions of size, ownership and type of activity. It has had several consequences: the imposition of sectoral surtaxes, a shift in policy contacts between public officials and private companies towards higher political levels or the emergence of new and unconventional types of informal lobbying, such as participation in government business delegations,

visiting football matches or financing state-owned or pro-government research centres with the hope of an invitation to insider policy discussion fora. In addition, the general mood of uncertainty discourages sectoral self-regulation initiatives as well. Our case studies of the financial, retail trade and tobacco sector lobbying provided evidence for shadow lobbying practices in a politically predominated business environment.

Strategic Partnership Agreement (SPA) can be considered as a specific product of government-business relations in order to mitigate uncertainties in the business environment. By 2012 both the governing Hungarian political elite and the major corporate actors present in Hungary had a clear interest in breaking the impasse of blocked dialogue and restoring communication channels; Strategic Partnership Agreements were dedicated to fill this functional policy gap. SPAs proved to be powerful policy and political tools: in economic policy terms, their scope covers around 35 percent of total Hungarian exports and more than 8 percent of private sector employment. They play a particularly important role in three manufacturing branches: the automotive industry, electronic and electrical industries and the pharmaceutical industry.

The conclusion of an SPA, however, cannot be considered as a clear indication of unfair lobbying or acceptance of corruption on the participating companies' behalf. Companies belonging to the inner circle, the closest allies of the governing Hungarian political elite, are not formalised strategic partners and they follow their lobbying practices outside of the scope of SPAs. SPAs instead serve to establish normal policy communication channels for companies that are not members of the inner circle but belong to the sectors that are not suffering sectoral policy punishment measures (e.g. sectoral surtaxes). While the outgroup, i.e. firms of the punished sectors, can rarely achieve an SPA, companies belonging

to the ingroup sectors can effectively improve their policy communication with public officials after concluding an SPA. According to our findings, if they functioned in a transparent way, SPAs thus could contribute to the normalisation of the communication channels and strategic policy negotiations among government policy representatives and business actors in Hungary. But in the current form they only contribute to the chaotic policy-making as the actors lack transparent and impartial rules thus face uneven playing field.

Lack of regulation and severe centralization of power have led to the creation of new and unconventional fora for lobbying, mostly in the shadows. In their desperation to enter into dialogue with the government, business actors endeavor to take part in government business delegations that go to places where the companies concerned have no intention of building contacts with local businessmen at all. Other business leaders regularly visit football matches, or they hire government near research centres. All these practices are employed to please the ruling political elite and catch an opportunity to talk to leading politicians. These unconventional fora obviously encourage shadow forms of lobbying.

Though our recommendations are shaped by the global principles of transparency concerning lobbying, we formulate them in a manner adapted to the present specific Hungarian circumstances.

1. Reinstating democratic checks and balances

Advocacy in the present Hungarian context should focus on the underlying issues of democratic transparency and anti-corruption measures (as opposed to the formal compliance approach of the government and a wider segment of the Hungarian political elite). To facilitate the creation of ethical and transparent lobbying, first institutional autonomy and independence needs to be enhanced to build equilibrium in the public life. To this end, the government needs to immediately restore the independence of state institutions designed to create checks and balances by law.

2. Better access to government information

Citizens and civil society have the right to be informed about all relevant public decisions, first and foremost about the ones that allocate public funding to business actors. Therefore the scope of business secrecy, bank secrecy and other different forms of confidentiality, which are often misused by the government to hold information of public interest back, shall be limited to the minimum. Government references to classified, confidential or restricted information should be subject to judicial review. Provisions scandalously included in the Law on Freedom of Information to restrict access to government information must be repealed.

3. Effective future lobby regulation

Promoting a new lobby regulation could easily result in a stand-alone law on lobbying, which the government could use to portray its efforts and successes in controlling corruption, a clear risk in a country where cronyism and state capture prevail, in TI-H's view. Failure of previous regulation has left many stakeholders skeptical about the usefulness of another regulation, a clear danger again. Still we are convinced that there is room for a future regulation on lobbying in Hungary and there is reason to believe that this can be effective and sustainable, provided, that it finds long-term support on behalf of all stakeholders concerned. Moreover, the process of reregulation should also be inclusive and legitimate, which expects the legislator to meaningfully involve all potential parties concerned, including public officials, business and civil actors, and the academia, even if this likely implies a slow process of lawmaking.

4. Intransigent enforcement of lobbying regulation

To make a future lobby regulation functional, the implementation thereof needs to be controlled by an independent organisation.

Besides introducing a new lobby control office, the law should also compel all public officials of whatsoever kind to attach a comprehensive and informative 'legislative footprint' to all decisions they are in charge of. Citizens and civil society have the right to be informed about who lobbied

whom in the course of the preparation and elaboration of public decisions, including decisions on the allocation of public money and public contracts. The envisioned new lobby control office shall examine if the reports on lobbying are duly enclosed to draft public decisions. Without the stamp given by this new office, no drafts may be introduced or adopted. Thus a future lobby control office shall act as a kind of co-introducer or co-signor of all public decisions.

5. Legislative footprint

The law does not require the publication of a legislative footprint of lobbying, i.e. a report on who lobbied whom and on what purpose prior to adopting the respective piece of legislation. Executive summaries attached to legislative proposals are not accessible publicly. Even though the executive summary does not contain the legislative footprint of lobbying either, it includes important information concerning the reasons

why the specific legislation was needed. These summaries, as so-called 'prepping documents', are deemed non-accessible public data under the Law on Freedom of Information. As a first step towards transparency, a lobbying report should be required as a compulsory element of legislative proposals. Such reports need to be made publicly accessible.

6. Encouraging self-regulation

Even though there is tangible reluctance on behalf of business actors, we are convinced that lobbying self-regulation can effectively mitigate the consequences of politically generated uncertainties. Therefore we encourage market players and their respective professional organisations to apply lobbying self-regulation tools and promote responsible lobbying practices in general. In this respect, at present, self-regulation seems the only solution that could compel the government to normalise its relationship with business actors.

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ANNEX NO. 1

LIST OF ACRONYMS AND ABBREVIATIONS

CEE – Central and Eastern Europe

GDP – Gross Domestic Product

LLL – Lifting the Lid on Lobbying

SPA – Strategic Partnership Agreement

TI – Transparency International

TI-H – Transparency International Hungary

ANNEX NO. 2

DATA COLLECTION QUESTIONNAIRE

Definitions

1. To what extent does the law clearly and unambiguously define ‘lobbyists’ to capture all who lobby professionally including professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics?

0 – No definition/Wholly inadequate definition covering a small proportion of lobbyists

There is no specific legislation on lobbying. There are two laws relating to lobbying namely on public participating in the preparation of legal regulations and on the integrity management of public administration and the regulation of accepting lobbyists. There is no definition of “lobbyist”.

- 1 – Partially but inadequately/too narrowly/too broadly defined
- 2 – The law clearly and unambiguously defines lobbyists to include professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.

Check all categories covered by law:

- Professional lobbyist
- Private Sector Representatives
- Public affairs consultancies
- Representative from NGO
- Representative from a for-profit corporation
- Representative from industry/professional association
- Trade unions
- Think tanks

- Law firms
- Faith-based organisations
- Academics
- Other, please specify _____

2. To what extent does the law/regulation define ‘lobbying targets’ in a sufficiently broad manner to include members of national and subnational legislative and executive branches (including advisors) and high level officials in national and subnational public administration, regulatory bodies and private bodies performing public functions?

0 – Lobbying targets are not defined in law/ Wholly inadequate definition covering a small proportion of lobbying targets

There is no specific legislation on lobbying. There are no defined “lobbying targets”. (In the decree public administration and the regulation of accepting lobbyists, all public service officers are regarded as potential lobby targets, except those officers who are members of the leadership or hold a position of the hierarchy).

- 1 – Lobbying targets are inadequately defined in law (including some but not all of the above-mentioned targets)
- 2 – Lobbying targets are broadly and adequately defined in law to include members of national and subnational legislative and executive branches (including advisors) and high level officials in national and subnational public administration, regulatory bodies and private bodies performing public functions

Check all categories covered by law:

- National Legislators
- Subnational Legislators
- National Executive

- Subnational Executives
- Executive Advisors
- High-level public officials
- Regulatory bodies
- Private bodies performing public functions
- Other, please specify _____

3. To what extent is the term ‘lobbying’/‘lobbying activities’ clearly and unambiguously defined in law/regulation to include any contact (written or oral communication, including electronic communication) with lobbying targets (see above) for the purpose of influencing the formulation, modification, adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position?

0 – No definition/Wholly inadequate definition covering a small proportion of lobbying activity
Lobbying activities are not regulated by law.

- 1 – Partially but inadequately/too narrowly defined
- 2 – Definition is clear and unambiguous and is comparable to the following international standard⁸⁰: any contact (written or oral communication, including electronic communication) with lobbying targets for the purpose of influencing the formulation, modification, adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position.

Transparency

Framing Questions to bear in mind when constructing the narrative for this section: To what extent does the public have sufficient knowledge of (a) who is lobbying public representatives (b) on what issues they are being lobbied (c) when and how they are being lobbied (d) how much is being spent in the process (e) what is the result of these lobbying efforts etc? Is the onus for transparency placed on both lobbyists and public officials/representatives?

Access to Information

4. To what extent is there a comprehensive access to information law that guarantees the public’s right to information and access to government data?

- 0 – No law exists
- 1 – Law exists but with inadequacies⁸¹
- 2 – Comprehensive law in place

5. In practice, to what extent do citizens have reasonable access to information on public sector activities and government data?⁸²

- 0 – In practice, citizens face major problems in accessing information and/or frequent violations of the law
- 1 – In practice, access is not always straightforward/citizens often face obstacles to access
- 2 – In practice, it is easy for citizens to access to information on public sector activities and government data

⁸⁰ See Sunlight Foundation Lobbying Guidelines (<http://sunlightfoundation.com/blog/2013/12/03/announcing-sunlights-international-lobbying-guidelines/>), the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying (2014, forthcoming) and Council of Europe Parliamentary Assembly Recommendation 1908 (2010) on lobbying in a democratic society

⁸¹ The most comprehensive attempt to rate the quality of access to information laws is the RTI Rating http://www.rti-rating.org/country_data.php which is not a perfect rating system but is worth consulting. For Bulgaria, France and Spain see also Transparency & Silence: A Survey of Access to Information Laws and Practices in Fourteen Countries http://www.opensocietyfoundations.org/sites/default/files/transparency_20060928.pdf. Further sources include National Integrity System Assessments & Global Integrity reports.

⁸² A useful source for most countries will be the Open Data Barometer <http://www.opendataresearch.org/project/2013/odb>

6. Do access to information laws apply to lobbying data?

think tanks, law firms, faith-based organisations and academics.

0 – No law exists/Law does not apply to lobbying data

1 – Some but not all lobbying data accessible under access to information laws

2 – Access to information laws cover lobbying data

Registration and Disclosure by Lobbyists⁸³

7. Is there a lobbyist register in the country?⁸⁴

0 – No register exists

No legal or voluntary register exists.

1 – Voluntary register exists/A register for a particular institution exists but does not apply to all lobbying activity

2 – A mandatory register exists

8. Where a register exists, to what extent does it capture all who lobby professionally including professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics in the country?

0 – Wholly inadequate scope covering only a small proportion of lobbyists

1 – Register captures may of the categories of lobbyists mentioned above but there are still some gaps

2 – The register clearly captures professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions,

Check all categories covered by register:

- Professional lobbyist
- Private Sector Representatives
- Public affairs consultancies
- Representative from NGO
- Representative from a for-profit corporation
- Representative from industry/professional association
- Trade unions
- Think tanks
- Law firms
- Faith-based organisations
- Academics
- Other, please specify _____

9. To what extent are lobbyists required to register in a timely (within 10 days of beginning of lobbying activity) manner?

0 – No compulsory registration.

1 – Lobbyists required to register, but with significant time lag (more than 10 days)

2 – Lobbyists required to register within 10 days of beginning lobbying activity

10. To what extent are lobbyists required to report regularly on their lobbying activities and expenditures in a timely manner (max real-time - min quarterly)?

0 – No requirement to report.

1 – Reporting requirement less often than quarterly but more often than annually

2 – Real-time - Quarterly reporting required

⁸³ Where no register exists, it is most likely that Questions 6-23 will be answered in the negative and all be scored 0. This is fine and can be used as a strong advocacy message when the transparency score reflects this lack of attention to lobbying transparency.

⁸⁴ These questions refer in the main to a public lobbyist registry which would apply to a broad range of lobbying targets across a range of public institutions (see Definition questions for 'best practice' scope of institutions and targets that should be covered by a registry). Where individual institutions have adopted their own registries, these should be assessed using the framework but the narrative should explicitly state the limitations in scope of the institutions covered. Furthermore, in such cases, scoring should be discussed with TI-S, as there are comparability issues to consider.

11. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant personal and employment information: name of the organization (if applicable); address and contact information; names of all active lobbyists working on behalf of the organization (if applicable)?

0 – No information required to be publicly disclosed by lobbyists

- 1 – Only basic information required to be publicly disclosed
- 2 – Sufficient information required to be publicly disclosed

Check all categories covered by law:

- Name (of individual or organisation)
- Address and contact details
- Names of all active lobbyists working on behalf of organisation
- Other

12. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant information on lobbying objectives and clients: name of the persons or organizations paying for the lobbying activities; names of the lobbyists' clients; specific subject matter lobbied?

0 – No information required to be publicly disclosed by lobbyists.

- 1 – Only basic information required to be publicly disclosed
- 2 – Sufficient information required to be publicly disclosed

Check all categories covered by law:

- Name of the persons or organizations paying for the lobbying activities
- Names of the lobbyists' clients
- Specific subject matter lobbied

- Specific legislative proposals, bills, regulations, policies, programmes, grants, contributions or contracts sought

13. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant information on who they are lobbying and what they are advocating: name and title of the public representative or public body with whom the lobbyist engaged and the date and type of such engagement as well as any information and/or supporting documentation communicated to policymakers?

0 – No requirement to report

- 1 – Only basic information required to be publicly disclosed
- 2 – Sufficient information required to be publicly disclosed

Check all categories covered by law:

- The name of the public representative or public body with whom the lobbyist engaged
- Date of engagement
- Type of engagement (personal visit, accepted invitation to event, official hearing)
- Supporting documentation communicated to policymakers

14. To what extent are lobbyists and organizations that lobby required to publicly disclose lobbying expenditures, including spending on efforts to support lobbying, loans, sponsorships, retainers, or the purchase of tickets for fundraising events?

0 – No information on expenditures required to be publicly disclosed by lobbyists

- 1 – Only basic information on expenditures required to be publicly disclosed
- 2 – Sufficient information on expenditures required to be publicly disclosed

15. To what extent are lobbyists and organizations that lobby required to publicly disclose political donations to parties and candidates?

0 – No requirement for public disclosure of political donations

Political donations from other than clearly identifiable individuals are forbidden by law, but no robust institution has been set up to enforce this regulation.

- 1 – Insufficient requirements for public disclosure of political donations
- 2 – Sufficient information on political donations required to be publicly disclosed

16. To what extent are lobbyists required to publicly disclose ‘in kind’ contributions: In-kind contributions may include advertising, use of facilities, design and printing, donation of equipment, or the provision of board membership, employment or consultancy work for elected politicians or candidates for office?

0 – No information on ‘in-kind’ contributions required to be publicly disclosed by lobbyists

- 1 – Insufficient information on ‘in-kind’ contributions required to be publicly disclosed by lobbyists
- 2 – Sufficient information on ‘in-kind’ contributions required to be publicly disclosed

17. Is information disclosed by lobbyists publicly available online in a searchable machine-readable open-data format?

0 – Information not available online

- 1 – Information available online but not in a searchable machine-readable open-data format (eg. Hand-written and scanned documents used)
- 2 – Information publicly available online in a searchable machine-readable open-data format

18. To what extent do the lobbyists register and provide sufficient/timely information in line with legislative obligations?

0 – Little or no compliance with legal obligations

- 1 – Some lobbyists comply but there are many cases of non-compliance
- 2 – Broad compliance with legal obligations

Oversight, Verification and Sanctions

19. To what extent is there an independent, mandated and well-resourced oversight entity charged with managing registration of lobbyists, offering guidance to individuals and organisations, monitoring returns, and investigating apparent breaches or anomalies (this includes powers to investigate complaints made but also to instigate investigations even where no complaint has been lodged)?

0 – No oversight entity exists

- 1 – Oversight agency exists but it is under-resourced and/or insufficiently mandated to provide meaningful oversight
- 2 – A fully mandated and resourced oversight entity is in place

20. To what extent is there a pro-active verification mechanism to audit disclosures and reports and detect anomalies?

0 – No verification mechanism exists

- 1 – Verification exists but is inadequate
- 2 – Adequate verification mechanism exists

21. In practice, to what extent are anomalies detected and followed up on by the oversight body?

0 – Little or no detection of anomalies

- 1 – In general, the oversight body is somewhat active in following up on anomalies detected

2 – In general, the oversight body is active in following up on anomalies detected

22. In practice, to what extent are anomalies detected and reported by others (e.g. investigative journalists) followed up on by the oversight body?

0 – Little or no detection of anomalies

1 – In general, the oversight body is somewhat active in following up on anomalies detected and reported by others

2 – In general, the oversight body is active in following up on anomalies detected and reported by others

23. To what extent does the law provide for penalties for knowingly filing a false lobbying registration return or failure to file a return?

0 – No penalties exists

1 – Penalties exist but they are inadequate

2 – Adequate penalties exist in law

24. To what extent are penalties for knowingly filing a false return or failure to file a lobbying registration return implemented in practice?

0 – Never

1 – Sometimes

2 – Always

25. To what extent are oversight bodies required to publicly disclose the names of all individuals or organizations found to have violated lobbying rules or regulations?

0 – No requirement to publicly disclose names of those who violate rules

1 – Disclosure of names of those who violate rules is at the discretion of the oversight body

2 – Mandatory disclosure of names of those who violate rules and details of the violation

26. To what extent are the names of all individuals or organizations found to have violated lobbying rules or regulations published in practice?

0 – Never

1 – Sometimes

2 – Always

Legislative Footprint

27. To what extent does the law require the publication of a ‘Legislative Footprint’ (document that details the time, event, person, and subject of legislators’ and senior public officials’⁸⁵ contact with a stakeholder) as an annex to all legislative records?

0 – No legislative footprint foreseen in law

1 – Piecemeal requirements to indicate who has sought to influence legislative or policy making processes in place

2 – The law requires publication of a legislative footprint as an annex to all legislative records

28. In practice, do legislators/public officials publish a legislative footprint including details of the time, person, and subject of contacts with stakeholders?

0 – No information on contacts publicly disclosed by legislators/public officials

1 – Some but insufficient information on contacts publicly disclosed by legislators/public officials

2 – Sufficient details of legislators’ contact with stakeholders published

29. To what extent are senior public officials required to pro-actively publish documentation related to meetings: calendars, agendas, documentation received from lobbyists etc?

⁸⁵ Generally senior public officials are considered as those in management positions with decision-making authority.

- 0 – No requirement to make documentation related to meetings public.
- 1 – Piecemeal requirements to make documentation related to meetings public
- 2 – The law requires publication of comprehensive documentation related to meetings: calendars, agendas, documentation received from lobbyists

30. To what extent are public representatives (national and subnational legislators) required to pro-actively publish documentation related to meetings: calendars, agendas, documentation received from lobbyists etc?

- 0 – No requirement to make documentation related to meetings public.
- 1 – Piecemeal requirements to make documentation related to meetings public
- 2 – The law requires publication of comprehensive documentation related to meetings: calendars, agendas, documentation received from lobbyists

Integrity

Framing Questions to bear in mind when constructing the narrative for this section: Is there a robust ethical framework for lobbyists (and companies) and lobbying targets in the country and to what extent is it working? Is the onus for integrity placed on both lobbyists and public officials/representatives?

Post-employment and Pre-employment Restrictions

31. To what extent does the law provide proportionate moratoria or ‘cooling off periods’ before former members of parliament, senior public servants, ministers and advisers can work as lobbyists?

- 0 – No cooling off period in place
- 1 – Less than 2 year cooling off period in place
- 2 – Cooling off period of at least 2 years in place

32. To what extent do ‘cooling off periods’ for those who wish to work as lobbyists apply to former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers?

- 0 – No cooling off period in place
- 1 – Cooling off period is in place but does not apply to all categories above.
- 2 – Cooling off period applies to all categories above

Tick categories covered:

- Former members of parliament (national)
- Former members of parliament (sub-national)
- Former members of national Executive
- Former members of subnational Executives
- Advisors
- Senior Public Servants
- Senior staff of regulatory bodies
- Other

33. In practice to what extent do former members of parliament, senior public servants, members of the executive and advisers move easily and directly into the lobbying sector?

- 0 – There have been a significant number of cases of former members of parliament, senior public servants, ministers, ministerial advisers moving directly into the lobbying sector
- 1 – There have been a number of cases of former members of parliament, senior public servants, ministers, ministerial advisers to moving directly into the lobbying sector.
Correct term for the Hungarian context would be ‘business sector’ or ‘for-profit sector’.
- 2 – Former members of parliament, senior public servants, ministers, ministerial advisers rarely move directly into the lobbying sector, usually respecting a cooling off period

34. To what extent does the law require former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers to receive permission from a designated ethics office/agency before taking up an appointment in the private sector where they could lobby their previous employer?⁸⁶

0 – No permission required

1 – Insufficient Restrictions (Insufficient coverage)

2 – Permission required and applies to all above-mentioned categories

35. In practice, to what extent do former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers seek permission from a designated ethics office/agency before taking up an appointment in the private sector where they could lobby their previous employer?⁸⁷

0 – Never

1 – Sometimes

2 – Always

36. To what extent is there an independent, mandated and well-resourced oversight entity charged with managing post and pre-employment restrictions, offering guidance to individuals and organisations, and investigating apparent breaches or anomalies?

0 – No oversight entity exists

1 – Oversight agency exists but it is under-resourced and/or insufficiently mandated to provide meaningful oversight.

2 – A fully mandated and well-resourced oversight entity is in place

Codes of Ethics for public sector employees

37. To what extent is ethical/responsible lobbying addressed in public sector codes of conduct (e.g. do they specify standards on how public officials should conduct their communication with interest groups, specify a duty of documentation of contacts, duty to report unregistered or unlawful lobbying to superiors?)

0 – No code of conduct exists for public officials and/or codes of conduct do not reflect ethical lobbying guidelines

1 – Codes of conduct address ethical lobbying in a piecemeal or insufficient manner.

Codes of Conduct for public and governmental officials exist, and also for the law enforcement, but they are restricted to vague and general principles. There are no specific lobbying requirements. No oversight mechanism for ethics conflicts or breaches.

2 – Codes of conduct comprehensively address ethical lobbying

38. To what extent do public sector codes of conduct specify standards on how public officials should deal with conflicts of interest issues?

0 – No code of conduct exists for public officials and/or codes of conduct do not adequately reflect conflict of interest issues

1 – Codes of conduct address conflict of interest issues in a piecemeal or insufficient manner.

2 – Codes of conduct comprehensively address conflict of interest issues

⁸⁶ A good source of information for this indicator is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p.59-62

⁸⁷ A good source of information for this indicator is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p.63

39. To what extent do public sector codes of conduct specify standards on how public officials should deal with gifts and hospitality issues?

- 0 – No code of conduct exists for public officials and/or codes of conduct do not adequately reflect gifts and hospitality issues
- 1 – Codes of conduct address reflect gifts and hospitality issues in a piecemeal or insufficient manner.
- 2 – Codes of conduct comprehensively address reflect gifts and hospitality issues

40. To what extent do public sector codes of conduct deal comprehensively with interest and asset declaration issues?

- 0 – No code of conduct exists for public officials and/or codes of conduct do not adequately reflect asset declaration issues.

Interest and asset declaration obligation – for members of Parliament and senior public officials are prescribed in the law, however validity is questionable, accessibility is extremely limited and effective, independent and impartial oversight mechanism is lacking.

- 1 – Codes of conduct address asset declaration issues in a piecemeal or insufficient manner
- 2 – Codes of conduct comprehensively address asset declaration issues

41. To what extent is there a complaint mechanism allowing any public official or citizen to report violations of the public sector code of conduct?

- 0 – No complaints mechanism exists.
- 1 – Complaints mechanism exists but is limited in scope
- 2 – Robust complaints mechanism exists

42. To what extent are there training and awareness-raising programmes for public officials on integrity issues, including lobbying rules and guidelines?

- 0 – No training/awareness-raising programmes exist on integrity issues
- 1 – Piecemeal and irregular approach to training/awareness-raising on integrity issues
- 2 – Comprehensive and regular training/awareness-raising on integrity issues

Codes of Ethics for Lobbyists

43. To what extent is there a statutory code of conduct for lobbyists including clear sanctions for failure to adhere to lobbying regulations?

- 0 – No code of conduct exists
- 1 – Code of conduct exists but it is inadequate
- 2 – Statutory code of conduct including sanctions exists

44. In practice, to what extent are sanctions applied for failure to adhere to lobbying regulations?

- 0 – Sanctions rarely/never applied
- 1 – Sanctions applied, but inconsistently
- 2 – Sanctions consistently applied

45. To what extent does the law and/or the lobbyists' code of conduct require disclosure regarding and provide restrictions on lobbyists being hired to fill a regulatory, financial decision-making or advisory post in government?

- 0 – No disclosure requirements or restrictions in place
- 1 – Insufficient Restrictions and disclosure requirements (e.g. lobbyist must deregister but no further restrictions)

- 2 – Sufficient disclosure requirements and restrictions in place (e.g. potential veto of appointment and/or restriction in types of decisions the employee would be involved in making)

46. To what extent does the law and/or codes of conduct prohibit simultaneous employment as a lobbyist and a public official?

- 0 – No mention of prohibition of simultaneous employment as a lobbyist and a public official
- 1 – Law/Code of conduct discourages but does not explicitly prohibit simultaneous employment as a lobbyist and a public official
- 2 – Law/Code of conduct explicitly prohibits simultaneous employment as a lobbyist and a public official

47. To what extent is there a complaint mechanism allowing any policy-maker or citizen to report violations of the lobbying regulations?

- 0 – No complaints mechanism exists
- 1 – Complaints mechanism exists but is limited in scope
- 2 – Comprehensive complaints mechanism exists

Self-regulatory Codes of Ethics for Lobbyists

48. To what extent are there self-regulatory code(s) of ethics managed by professional association(s) for lobbyists or by companies themselves?*

- 0 – No code of ethics exists
No professional lobbying association exists in Hungary, only for public relations' specialists. The Hungarian Public Relation Association's Code of Ethics identical to the European Code of Professional Conduct in PR (Code of Lisbon). There are several chamber of

commerce in Hungary, e.g. American, British, etc. Their code of ethics is referring to lobbying activities.

- 1 – Code of ethics exists but it is inadequate.
- 2 – Code of ethics including sanctions exists

49. To what extent do existing self-regulatory codes of ethics for lobbyists include specific behavioural principles that steer lobbyists away from unethical situations?*⁸⁸

- 0 – Codes do not provide any behavioural principles that steer lobbyists away from unethical situations
- 1 – Codes mention behavioural principles but are vague and/or incomplete
- 2 – Codes of ethics for lobbyists include specific behavioural principles that steer lobbyists away from unethical situations

Check all categories covered by codes:

- Requiring honesty and accuracy of information provided to public officials
- Requiring early disclosure to public officials of the identity of client and interests being represented
- Refraining from using information obtained in violation of the law
- Refraining from encouraging public officials to violate the law
- Banning gifts above a de minimis value, fees, employment or any other compensation from a lobbyist to a public official.
- Requiring speedy disclosure of any conflict of interest and management of such conflicts of interest or recusal
- Making ethics training a condition of membership in the association.
- Establishing a reasonably independent mechanism for monitoring and enforcing compliance to the ethics code.
- Others, please specify _____

⁸⁸ Based on OECD (2009) Lobbyists, government and public trust: Promoting integrity by self-regulation, p.33 <http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=gov/pgc%282009%299>

50. To what extent do existing self-regulatory codes require lobbyists to publicly disclose the identity of who they are representing and what they are lobbying for?*

0 – No information required to be publicly disclosed by lobbyists

- 1 – Only basic information required to be publicly disclosed and/or the information is not public
- 2 – Sufficient information required to be publicly disclosed (name of the persons or organizations paying for the lobbying activities; names of the lobbyists' clients; specific subject matter lobbied)

51. To what extent do existing self-regulatory codes prohibit simultaneous employment as a lobbyist and a public official?*

0 – No mention of prohibition of simultaneous employment as a lobbyist and a public official

- 1 – Code of conduct discourages but does not explicitly prohibit simultaneous employment as a lobbyist and a public official
- 2 – Code of conduct explicitly prohibits simultaneous employment as a lobbyist and a public official

52. To what extent is there a complaint mechanism allowing any member or non-member of the association to report violations of the lobbying code of ethics?*

0 – No complaints mechanism exists

- 1 – Complaints mechanism exists but is limited in scope
- 2 – Robust complaints mechanism exists

53. To what extent are there reasonably independent mechanisms for the monitoring and enforcement of compliance with the ethics code(s)?*

0 – No monitoring and enforcement mechanisms exists

- 1 – The monitoring mechanism exists but is not independent, or is limited in scope
- 2 – A robust and reasonably independent monitoring and enforcement mechanism exists

Equality of Access – The Level Playing Field

Framing Questions to bear in mind when constructing the narrative for this section: Are there sufficient spaces in the system to allow for diverse participation and contribution of ideas and evidence by a broad range of interests that lead to policies, laws, and decisions which best serve society and broad democratic interests?

Consultation and Public Participation in Decision-making

54. To what extent is the Parliament required by law to allow citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input?

- 0 – The legal framework does not consider the provision of input to the legislative process.
- 1 – The legal framework allows for citizens and the public (corporations, civic organizations) to provide input to parliament, but it does not make any provisions regarding equal access, sufficient notice and time to receive this input.
- 2 – Parliament is required by law to allow the citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input.

55. To what extent does the legal framework lay out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies, including timeframes and specific

mechanisms to disseminate public meeting information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies?

- 0 – There are no procedures and rules for participation in policy discussions and decision making processes, or they are ad hoc to each policy and decision making process.
- 1 – There are some provisions for making public the means of participation in policy, but they are not specific, or they are relegated to policy directives.
- 2 – Yes, there is a specific regulatory framework that clearly lays out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies, including timeframes and specific mechanisms to disseminate public meeting information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies.

56. To what extent does the legal framework explicitly require public authorities to ensure equal participation by all affected groups and stakeholders in decision-making processes?

- 0 – There are no provisions regarding the consultation of groups and stakeholders affected by policy.
- 1 – Some provisions regarding the equal participation of affected groups exist, but they are not specific, or they are relegated to policy directives.
- 2 – The legal framework explicitly requires public authorities to ensure equal participation by all affected groups and stakeholders in decision-making processes.

57. In practice, which of the following forms of public participation are routinely used?⁸⁹

- Informal consultation with selected groups
- Broad circulation of proposals for comment
- Public notice and calling for comment

- Public meeting
- Posting proposals online
- Advisory/Expert Groups
- Preparatory Public Commission/committee
- Others, please specify _____

58. In practice, to what extent are consultations open to participation from any member of the public?

- 0 – Consultations are rarely/never open to any member of the public
- 1 – Consultations are sometimes but not always open to any member of the public
- 2 – Consultations are generally open to any member of the public

59. In practice, to what extent are the views of participants in the consultation process made public?

- 0 – The views of participants in the consultation process are rarely/never made public
- 1 – The views of participants in the consultation process are sometimes but not always made public
- 2 – The views of participants in the consultation process are always made public

60. To what extent does the legal framework explicitly require public authorities to provide a detailed justification on why and how various submissions have or have not been taken into account in policy and decision-making processes after consultation?

- 0 – There are no provisions requiring public authorities to explain whether and how they have considered participation, or there is no participation provided for.

⁸⁹ A good source of information for indicators 56-58 is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p. 20. The indicator questions draw heavily on the OECD draft report.

- 1 – There are some provisions requiring public authorities to explain whether and how they have considered submissions, but they are not specific, or they are relegated to policy directives.
- 2 – The law explicitly requires public authorities to provide a detailed justification on why and how submissions have or have not been taken into account in policy and decision-making processes after consultation.

Advisory/Expert Group Composition⁹⁰

61. To what extent is there a legal obligation to have a balanced composition (between private sector and civil society representatives) of advisory/expert groups?

- 0 – No requirement to have balanced composition
- 2 – The law requires meaningful balanced composition between private sector and civil society representatives

62. In practice, to what extent is there a balanced composition (between private sector and civil society representatives) of advisory/expert groups?

- 0 – Advisory groups are generally biased towards particular interests
- 1 – Advisory groups are sometimes balanced, sometimes not.
- 2 – There is a meaningful balance between private sector and civil society representatives on advisory groups

63. To what extent are lobbyists prohibited from sitting on advisory/expert groups in a personal capacity?

- 0 – Lobbyists can freely sit on advisory groups in a personal capacity
Note, that the term ‘lobbyist’ is inadequate for the Hungarian context.
- 2 – Lobbyists are prohibited from sitting on advisory/expert groups in a personal capacity

64. To what extent are corporate executives prohibited from sitting on advisory groups in a personal capacity?

- 0 – Corporate executives can freely sit on advisory groups in a personal capacity
- 2 – Corporate executives are prohibited from sitting on advisory/expert groups in a personal capacity

65. With regard to advisory/expert groups, to what extent is membership information, agendas, minutes and participants’ submissions required to be made public?

- 0 – Information not publicly available
- 1 – Information available, but only on request
This belongs to the kind of information one needs to litigate for and it is more than questionable if the court sustained such a petition.
- 2 – Information publicly available online or in print form

90 Following the OECD definition, here an advisory or expert group refers to any committee, board, commission, council, conference, panel, task force or any subcommittee set up by government (executive, legislative or judicial branch) or any of its subgroups to provide it with advice, expertise or recommendations. In some countries, advisory groups will be regulated differently depending on which sector/institution is concerned. If this is the case, we suggest the focus should be on parliamentary advisory group involved in the process of legislating. A good source of information for this set of indicators is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p. 66-68. The indicator questions draw heavily on the OECD draft report.

ANNEX NO. 3

INDICATIVE INTERVIEW QUESTIONS FOR THE EMPIRICAL FIELDWORK

1. According to your experiences, which forms of lobbying, methods of contacts or modes of communication have been working effectively between the government and the major companies (considered to be as strategically important ones) in Hungary?
2. Have you registered marked changes in this respect for the last couple of years? Are there certain forms of lobbying, methods of contacts or modes of communication that effectively worked previously, but have recently become irrelevant?
3. According to your experience are there recently emerging new (or traditional, but innovative) forms of lobbying, methods of contacts or modes of communication that work effectively between major companies and governmental economic policy representatives? Please, consider both the strategic and the operational level.
4. Have you registered marked changes in the formal hierarchical level and the substantive quality of contacts concerning the potentially effective forms of lobbying? (Assumption: previously lower level policy relations were dominant, but recently the higher level, politically driven relations are shaping the forms of lobbying, methods of contacts and modes of communication.)
5. If you have registered relevant changes, what could be the causes of them? In your opinion, what are the advantages and the disadvantages of these changes?
6. In your opinion, what is the role of Strategic Partnership Agreements (SPAs) among the new forms of lobbying?
7. Please, describe briefly the process of making your SPA. Who initiated the agreement; what was the role of the government and what was your role in the process?
(if the interviewee represents a company that has an SPA)
8. In your opinion, what are the main advantages of the completion of the SPA for the company?
9. If you have not managed to complete the SPA, what kind of negative consequences could emerge?
10. In your opinion, what kind of motives could the government have to sign an SPA with your company? Why was your company selected for this?
11. In general, how do you see the role of these (SPA) agreements in Hungarian economic policy? Can we identify some specific features of SPAs along some dimensions of segmentation of the corporate sector (branch of activity, size, type of ownership, etc.)?
12. Since the completion of the SPA how has your relationship developed with the government?
13. Have you experienced any meaningful change in this relationship that could be related to the fact that you have an SPA?
14. Were you able to achieve some specific tax reliefs or other favourable changes in economic policies? Alternatively, were you able to avoid some harmful changes in taxation or other economic policy plans of the government?
15. How do you assess your SPA in general? Has it fulfilled your expectations?

16. In your opinion, how can we assess the role of the SPAs in the Hungarian business environment in general? What is their impact on business climate and broader economic policy? Do you prefer this policy or would you prefer alternative policy measures that could have more beneficial impacts on business climate and development prospects of the Hungarian economy?

(if the interviewee does not represent a corporate actor or if they do not have an SPA)

17. In your opinion, what kind of motives could the government have to sign an SPA with some particular companies? Can we identify some specific features of SPAs along some dimensions of segmentation of the corporate sector (branch of activity, size, type of ownership, etc.)?

18. How do you assess the impact of the SPAs on Hungarian business climate?

19. In your opinion, are there alternative policy measures that could have more beneficial impacts on business climate and development prospects of the Hungarian economy?

(from each of the interviewees)

20. Do you have any particular comment? Would you like to mention something else that you consider relevant concerning the issues of lobbying and the SPAs?

(Thanks for your cooperation.)

ANNEX NO. 4

LIST OF THE ORGANISATIONS OF THE INTERVIEWEES (APRIL, 2014)

Type of organisation	Position in the Hungarian landscape of lobbying potential	Have they signed an SPA?
Company, manufacturing sector	large company in favoured sector with dominant Hungarian ownership	yes
Company, manufacturing sector	large multinational company in favoured sector	yes
Company, manufacturing sector	large multinational company in favoured sector	yes
Company, business services sector	large multinational company in punished sector	yes
Company, business services sector	large multinational company in punished sector	yes
Company, energy sector	large multinational company in punished sector	no
Professional association representing mainly transnational investors		
Professional association representing mainly transnational investors		
Government economic policy unit		

ANNEX NO. 5

LIST OF COMPANIES THAT CONCLUDED A STRATEGIC PARTNERSHIP AGREEMENT (BY APRIL, 2014)⁹¹

Company	Date of SPA completion	Country of ultimate owner
Automotive industry		
Daimler AG	11/9/2012	Germany
Magyar Suzuki Zrt.	11/21/2012	Japan
Stadler Trains Magyarországi Vasúti Szolg. Kft.	12/17/2012	Switzerland
Audi Hungária Motor Kft.	2/26/2013	Germany
Continental AG	4/3/2013	Germany
Bridgestone Tatabánya Termelő Kft.	5/31/2013	Japan
Denso Gyártó Magyarország Kft.	6/12/2013	Japan
Linamar Hungary Zrt.	6/19/2013	Canada
Delphi Hungary Autóalkatrész Gyártó Kft.	1/30/2014	United States
Knorr Bremse Group	2/5/2014	Germany
Leier Hungaria Kft.	1/9/2014	Austria
ZF Hungária Kft.	22/7/2014	Germany
Takata Safety Systems Hungary Kft.	8/27/2014	Japan
Schwarzmueller Járműjavító Kereskedelmi Kft.	7/27/2014	Austria
Electronics and electrical industries		
General Electric (GE) Hungary Kft.	12/10/2012	United States
IBM Magyarország Kft.	1/11/2013	United States
Nokia Siemens Networks Kft.	1/28/2013	Finland/ Germany
Jabil Circuit Magyarország Kft.	3/12/2013	United States
Siemens Zrt.	5/4/2013	Germany
Ericsson Magyarország Zrt.	7/10/2013	Sweden
Bosch Csoport (ROBERT BOSCH Kft.)	7/31/2013	Germany
Hewlett Packard	9/4/2013	United States
Samsung Electronics Magyar Zrt.	9/19/2013	South Korea
Phoenix Mecano Ltd.	11/28/2013	Switzerland
Schneider Electric	12/5/2013	France
Festo Kft.	25/7/2014	Germany

⁹¹ The research includes the strategic partnership agreements concluded by April, 2014. The eight agreements signed since then are added to the table of Annex No 5.

Company	Date of SPA completion	Country of ultimate owner
Pharmaceutical industries		
Richter Gedeon Vegyészeti Gyár Nyrt.	11/2/2012	Hungary
TEVA Magyarország Zrt.	5/2/2013	Israel
Sanofi-Aventis Magyarország Ker. és Szolg. Zrt.	5/21/2013	France
Egis Gyógyszergyár Nyrt.	12/2/2013	France
Glaxo Smith Kline Kft.	4/10/2014	United Kingdom
Other manufacturing sectors		
Coca-Cola HBC Magyarország Kft.	7/20/2012	United States
Alcoa-Köfém Kft.	11/7/2012	United States
Hankook Tire Kft.	11/27/2012	South Korea
LEGO Manufacturing Kft.	4/15/2013	Denmark
CG Electric Systems Hungary Zrt.	10/15/2013	India
BorsodChem	2/12/2014	China
Agrana Csoport	18/7/2014	Austria
Bonafarm Csoport	25/7/2014	Hungary
Ganz Holding	7/30/2014	Hungary
Prinzhorn Holding	2/26/2014	Austria
ITC		
Microsoft Magyarország Kft.	12/12/2012	United States
Huawei Technologies	4/18/2013	China
Telecommunications		
Telenor	11/5/2013	Norway
Magyar Telekom	2/21/2014	Germany
Other sectors		
Tesco-Global Áruházak Zrt.	12/18/2012	United Kingdom
Tata Consultancy Services Magyaro. Fióktelepe	1/21/2013	India
National Instruments Hungary Kft.	2/15/2013	United States
Dalkia Energia Zrt.	4/5/2013	France
Waberer's International Zrt.	4/26/2013	Hungary

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