

A large, stylized graphic of a globe in shades of blue, positioned on the right side of the page. The globe is composed of several overlapping, semi-transparent circular and curved shapes that create a sense of depth and movement. The colors range from a light, pale blue to a darker, more saturated blue.

Corruption Perceptions Index and Hungary's track record of corruption, 2023

A report by Transparency International Hungary

Transparency International Hungary report

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The report is closed on 25 January 2024

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Executive Summary

Results of the Corruption Perceptions Index

The Secretariat of Transparency International in Berlin has prepared for the 29th time its Corruption Perceptions Index (CPI), which ranks countries by the public sector's resilience to corruption. In 2023, Hungary scored 42 points on a scale ranging from 0 (the most corrupt country) to 100 (the least corrupt country). Thus, while maintaining its score from 2022, it ranked 76th on the list of 180 countries, moving up one place.

In 2012, Hungary was ranked 46th in the world with 55 points, which means that in the last eleven years, Hungary has slipped down by a total of 30 places and 13 points, indicating a significant deterioration by international standards as well.

In terms of anti-corruption performance, Hungary has maintained its bottom ranking among the Member States of the European Union for the second year in a row. The downturn is continuous: while in 2012 Hungary ranked 19th in the European Union in terms of CPI score, five years ago only Greece and Bulgaria had a weaker anti-corruption performance. After that, Hungary achieved its bottom ranking among the European Union countries in multiple formations: in 2020, it finished in the last place in a three-way tie with Bulgaria and Romania, then first Romania, and later Bulgaria improved their rankings.

The Visegrád countries are well ahead of Hungary. The Czech Republic ranks 16th in the European Union with 57 points, while Poland and Slovakia tie for 19th place with 54 points each. Poland's anti-corruption performance—in parallel with the deterioration of the rule of law—has shown a downward trend since 2016 with its score falling from 58 to 54 between 2012 and 2023. In contrast, the CPI scores of the Czech Republic and Slovakia reflect an improving trend from 2020 onward.

The corruption situation in Hungary's neighboring countries shows a mixed picture. Austria—Prime Minister Viktor Orbán's “laboratory”, which Hungary is expected to catch up with in all respects by 2030 —, was significantly ahead of Hungary by 29 points last year, with the gap between the two countries increasing from 14 points in 2012 to more than the double of that by 2023. Among the countries bordering Hungary, Serbia and Ukraine tied for last place (36 points each) in 2023. The “historical friendship” between Serbia and Hungary is reflected in their CPI scores as well: the two countries were only 6 points apart last year. Meanwhile, Hungary is increasingly lagging behind three other neighboring countries: Slovenia with a score of 56 is ahead by 14 points, Slovakia with a score of 54 is ahead by 12 points, while Croatia with a score of 50 is 8 points ahead of Hungary in 2023. These countries have been ahead of Hungary in terms of resistance to corruption since the mid-2010s.

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In parallel with the presentation of the Corruption Perceptions Index, Transparency International Hungary published its Annual Report on corruption, which comprehensively analyzes the state of the rule of law, public procurement, and the access to EU funds, as well as the impact of corruption on economic performance.

Rule of Law and Corruption – The Impact of Super Milestones

The chapter on the rule of law seeks to answer whether Hungary's the rule of law performance has improved in the last two years as a result of mechanisms protecting the financial interests of the European Union, such as measures against corruption enforced by the conditionality procedure and the reform of the judiciary.

TI Hungary points out that the Integrity Authority, which is intended by the government and the EU to be the flagship of anti-corruption measures, though formally independent of the government, but relies on various state authorities during its operations. While it is supposed to combat abuses against EU funds, it has only very limited powers concerning specific infringements. The Anti-Corruption Task Force (of which TI Hungary is a member), set up alongside the Integrity Authority, also suffers from a lack of powers: it cannot investigate individual allegations of corruption and cannot ask whether the authorities responsible for fighting abuses are doing their job properly. The Task Force would be effective if it were taken seriously not only by its civil society members but also by the public authorities.

The report also points out that the government's approach to accessibility of public interest information has not changed significantly since the government, under pressure from the EU, removed some of the most blatant barriers to availability of public data, such as the imposition of an unlimited amount of up-front fees by authorities for fulfilling data requests. However, the protection of trade secrets has been strengthened, giving another tool for secrecy, and the most serious restrictions remain in place. In addition, in December 2023, nearly half a dozen new restrictions were introduced, such as the increase in the time limit for the confidentiality of certain government decisions from ten to twenty years.

In yet another act in the absurd drama of asset declarations that has been going on for decades, the report finds that the 2022 reforms have produced an even worse result than the initial situation: declarants do not have to declare their residential property, and incomes only have to be declared by the broad ranges instead of exact sums.

To meet EU requirements, the government adopted a judicial reform package, which repealed several provisions that blatantly undermined the independence of the judiciary. Because of this, the European Commission released EUR 10.2 billion from the Cohesion Fund in December 2023. The reforms mean that government agencies can no longer challenge unfavorable court rulings before the Constitutional Court, which acts as an extended arm of the government. Moreover, members of the Constitutional Court are no longer able to apply for automatic appointment to the Curia. The government has also withdrawn a provision that prohibited Hungarian judges from initiating so-called preliminary reference procedures at the Court of Justice of the European Union. The most influential measure of the judicial reform is the major strengthening of the powers and organization of the National Judicial Council (NJC), which is elected by the judges from among themselves.

Yet the judicial reform imposed by the Commission is inadequate to restore the autonomy of the judiciary, which would require the rebuilding of the rule of law. Many risk areas, such as the allocation of cases or the anomalies surrounding the promotion and remuneration of judges are neglected. The main problem, however, is that the reform is overdue. In the 14th year of the Mr. Orbán's System of National Cooperation (NER), it is increasingly difficult for the courts to extricate themselves from the influence of the government. Taking into account that the NER-system typically promotes professionals who are not critical of the government to leading positions, the fact that most of the court leaders took office after 2010 makes autonomy aspirations even more difficult.

The report considers the Sovereignty Protection Act and the Sovereignty Protection Authority, starting off just two days from now, to be an unnecessary government initiative that will consume a lot of taxpayers' money and is contrary to the Fundamental Law.

TI Hungary believes that the fact that the anti-corruption laws passed under EU pressure have been half-hearted at best is not a coincidence. The Orbán government's goal is not to restore the rule of law and curb corruption, but to gain the fullest possible access to EU funds, and will therefore always be

balancing between compliance with EU law and the pursuit of its regime's interests. It doesn't take much foresight to predict that if there is a conflict between the two, then the latter aspect will prevail.

Anomalies in the public procurement system

The report's chapter on public procurement states that neither the measures aimed at reducing systemic corruption nor the stagnant investments due to dwindling EU funds have so far brought about a turnaround in the domestic public procurement market, which has become a major instrument for politically motivated distribution of public funds in recent years. While a significant part of the commitments adopted under the EU Recovery Plan and the conditionality mechanism aim to improve the integrity of public procurement, the implementation of corrective measures has fallen short of expectations on several points. Although the share of single bid tenders is decreasing, this alone is not sufficient to restore market conditions. The government's action plan to increase competition in the market is not delivering significant results either, and there are still numerous shortcomings in the publication of public procurement data.

Even full compliance with the (super)milestones would not solve all systemic problems. In the highly concentrated domestic public procurement market, some pro-government players have cemented themselves in an immovable leadership position, far above their competitors. In some sectors, such as communications, IT, and other service-related procurement, framework agreements lacking preparation and transparency have helped government-affiliated companies to become market leaders.

The emergence of investment structures that conceal beneficial ownership among the winning bidders for public procurement contracts undermines transparency and makes it difficult to investigate corruption risks. The number of private equity funds in Hungary has grown exponentially in recent years. TI Hungary's Tender Champions database (<https://tenderbajnok.transparency.hu>), which was launched last year and combines public procurement data with company records, shows that almost 5% of the total value of all procedures examined were won by private equity funds.

The impact of corruption on economic performance

The report's economic chapter concludes points out that in 2023, as in previous years, the correlation between economic performance measured by Gross Domestic Product (GDP) per capita and scores on Transparency International's Corruption Perceptions Index remained strong. In other words, the relationship between corruption and the level of economic output is strong, although the regression coefficient of 0.77, indicating the strength of this association, has shown a slight downward trend in recent years.

According to the Corruption Perceptions Index, Hungary is the most corrupt Member State in the European Union, while its economic performance is modest. According to the International Monetary Fund (IMF), in terms of GDP per capita, Hungary outperforms only Bulgaria, Romania, and—to a minimal extent—Croatia. Hungary's modest performance is reflected in the fact that all three other Visegrád countries are now outperforming it. The situation is even worse in terms of actual household consumption, where the latest data for 2022 show Hungary ranking second to last in the EU, in 26th place with 72 percent of the EU average, ahead of only Bulgaria (67 percent).

Hungary is stuck in the EU's lower house despite the fact that, according to the International Monetary Fund (IMF), GDP per capita grew by no less than 54 percent in a decade, from USD 13,666 in 2013 to USD 21,076 in 2023. But despite relatively high cumulative growth over the past decade, most EU countries have performed better than Hungary after 2010. The reasons for this can be found in long-standing structural weaknesses in the economy, which have deepened in recent years, and in the systemic corruption associated with the disruption of the rule of law. Growth since 2016 has been

fueled by forced increases in consumption and investments, rather than productivity improvements and exports.

The rate of productivity growth over the thirteen years of the NER was only 16 percent, which was only good enough for last place among the Central and Eastern European Member States, in a tie with Slovenia, which has a much stronger economy. However, the productivity growth of the post-2010 Orbán governments is only half of the productivity change measured in Hungary between 2000 and 2010.

For many years (until 2023), the Hungarian economy has been characterized by a very high investment rate, including private investments as a percentage of GDP. This is not as great a result as it appears on the surface. The high level of investments relative to GDP has been coupled with modest economic performance and poor productivity compared to countries in the region. This combination indicates that investments are extensive, inefficient, and not sufficiently supportive of economic growth. Moreover, in 2023, both public and private investment fell, due to the freezing of EU funds and the recession. Foreign direct investment inflows are also in decline, with Asian capital steadily gaining ground in the Hungarian economy since 2020.

Access to EU funds

Finally, the report gives an overview of Hungary's access to EU funds. The most important development last year was that in December 2023, the European Commission unblocked EUR 10.2 billion, almost half of the cohesion funding payable to Hungary between 2021 and 2027, which had been blocked due to rule of law problems, mainly corruption linked to EU funds since 2022. However, the Commission indicated that the measures taken by Hungary only address the restoration of the independence of the judiciary among the outstanding concerns. Some EUR 11.7 billion of the EUR 21.9 billion Cohesion Fund payable to Hungary remains blocked.

The conditionality procedure, launched in 2022, links the release of funds to 17 anti-corruption measures, known as milestones. Until these are met, the EU will withhold 55 percent of the budget for three operational programs, totaling EUR 6.3 billion.

Due to rule of law concerns, Hungary has also no access to EUR 10.4 billion payable from the EU's economic recovery fund (EUR 6.5 billion in direct grants and EUR 3.9 billion in soft loans), except for an advance of EUR 920 million, which the Hungarian government recently received the green light to draw down. Known as the Recovery and Resilience Instrument (RRF), the fund was set up after the COVID-19 outbreak.

The Charter of Fundamental Rights of the European Union is one of the so-called horizontal enabling conditions that define the principles governing the use of the EU's cohesion policy budget. In December 2022, the Commission found Hungary in breach of the Charter in four areas, including the judiciary, asylum rights, the rights of sexual minorities, and academic freedom. In December 2023, Hungary's judicial reform was adopted by the Commission, but no substantial progress has been noted in the other three areas, resulting in the withholding of around EUR 5 billion.

Latest results of the Corruption Perceptions Index

Hungary is the most corrupt EU Member State

The Secretariat of Transparency International in Berlin has published for the 29th time its Corruption Perceptions Index (CPI¹), which ranks countries by the public sector's resilience to corruption.

In 2023, Hungary scored 42 points on a scale ranging from 0 (the most corrupt country) to 100 (the least corrupt country). Thus, while maintaining its 2022 score, it ranked 76th on the list of 180 countries, moving up one place. In 2012, Hungary was ranked 46th in the world with 55 points, which means that in the last eleven years, Hungary has dropped a total of 30 places and 13 points, indicating a significant deterioration by international standards as well.² In terms of anti-corruption performance, Hungary has maintained its bottom ranking among the Member States of the European Union for the second year in a row.

In the global ranking, Hungary is tied with Bahrain, Cuba, Trinidad and Tobago, Moldova, and North Macedonia in terms of CPI score, and China also scored 42 points. It should be noted that mechanical comparisons of the anti-corruption performance of countries that differ significantly in social, economic, or even cultural terms can be misleading, as expectations of the anti-corruption resilience of individual countries can differ significantly. It is therefore more important to look at longer-term

¹ The Corruption Perceptions Index (CPI) is prepared by the Secretariat of Transparency International (TI) in Berlin based on 13 surveys and analyses performed by 12 organizations. They measure corruption in the public sector by surveying the opinion of experts and businessmen on the corruption exposure of the public institutional system, the economy, and society. Corresponding data were available on 180 countries in 2023, and Hungary was assessed based on 10 different subfactors. TI defines the scores of the sub-factors on a scale from 0 to 100, where 0 marks highly corrupt countries and 100 those least affected. The secretariat of TI in Berlin calculates the index by weighting the average of the scores. In the Corruption Perceptions Index, a score of "0" indicates the most corrupt country, and a score of "100" indicates the least corrupt country (for a detailed description of the CPI methodology, see www.transparency.org/research/cpi/overview). The CPI is based on a compilation of surveys and research from the African Development Bank Country Policy and Institutional Assessment, Bertelsmann Foundation Sustainable Governance Index, Bertelsmann Foundation Transformation Index, Economist Intelligence Unit Country Ratings, Freedom House Nations in Transit, Global Insights Country Risk Ratings, IMD World Competitiveness Yearbook, Political and Economic Risk Consultancy Asian Intelligence, Political Risk Services International Country Risk Guide, Varieties of Democracy (VDEM) Project, World Bank Country Policy and Institutional Assessment, World Economic Forum Executive Opinion Survey (EOS), World Justice Project Rule of Law Index. The 2022 Corruption Perceptions Index data for Hungary is compiled from ten different surveys, excluding data from the African Development Bank Country Policy and Institutional Assessment and the World Bank Africa Country Policy and Institutional Assessment, and the Political and Economic Risk Consultancy Asian Intelligence surveys for obvious reasons. Hungary is assessed by all sub-indices of the Corruption Perceptions Index that are relevant to Europe. The CPI survey covered on average 50-80 countries in the years 1995-2000, 100-130 countries between 2001-2005, and 160-180 countries between 2006 - 2016. Since 2017, the number of countries surveyed has been 180 every year. Hungary has been included in the CPI survey every year since 1995. Transparency International's Secretariat in Berlin has calculated Hungary's CPI score based on data from 10 surveys every year since 2017. The survey has been criticized from time to time, and in response, Transparency International asked the European Commission for a credibility (robustness) test in 2018. The Joint Research Center (a background institution of the Commission) has audited the CPI and found it to be a suitable tool for measuring corruption (the report is available at https://www.transparency.org/files/content/pages/2018_CPI_2017_StatisticalAssessment.pdf).

² Transparency International Hungary: Corruption Perceptions Index—2012 (<https://transparency.hu/adatok-a-korrupcirol/korrupcio-erzekelesi-index/cpi-2012/>)

trends and to compare the anti-corruption performance of countries with comparable institutional arrangements and cultural specificities than to use a single score and compare year-on-year. A comparison of EU Member States largely fulfills these requirements.

Table 1: Member States of the European Union in the 2023 Corruption Perceptions Index

Placement within the EU	Country	Score		Placement within the EU	Country	Score	
1.	Denmark	90	=	15.	Latvia	60	↑
2.	Finland	87	=	16.	Czech Republic	57	↑
3.	Sweden	82	↓	17.	Italy	56	=
4.	Netherlands	79	↓		Slovenia	56	=
5.	Germany	78	↓	19.	Poland	54	↓
	Luxembourg	78	↑		Slovakia	54	↑
7.	Ireland	77	=	21.	Cyprus	53	↑
8.	Estonia	76	↑	22.	Malta	51	=
9.	Belgium	73	=	23.	Croatia	50	=
10.	France	71	↓	24.	Greece	49	↓
	Austria	71	=	25.	Romania	46	=
12.	Lithuania	61	↓	26.	Bulgaria	45	↑
	Portugal	61	↓	27.	Hungary	42	=
14.	Spain	60	=				

Source: Source: TI Hungary calculations based on the Corruption Perceptions Index 2023. In the column showing the ranking of countries, we report the ranking within the European Union—not the global ranking—and the arrows indicate the direction of change of the country's score in relation to its score in the Corruption Perceptions Index in 2022.

According to the 2023 Corruption Perceptions Index results, Hungary has been found the most corrupt Member State of the European Union for the second year in a row. Hungary's resistance to corruption has steadily deteriorated over the past eleven years. While in 2012 Hungary ranked 19th in the European Union in terms of CPI score, five years ago only Greece and Bulgaria had a weaker anti-corruption performance. In that year, Hungary ranked last among both the V4 countries and the Member States that joined the EU in 2004.³

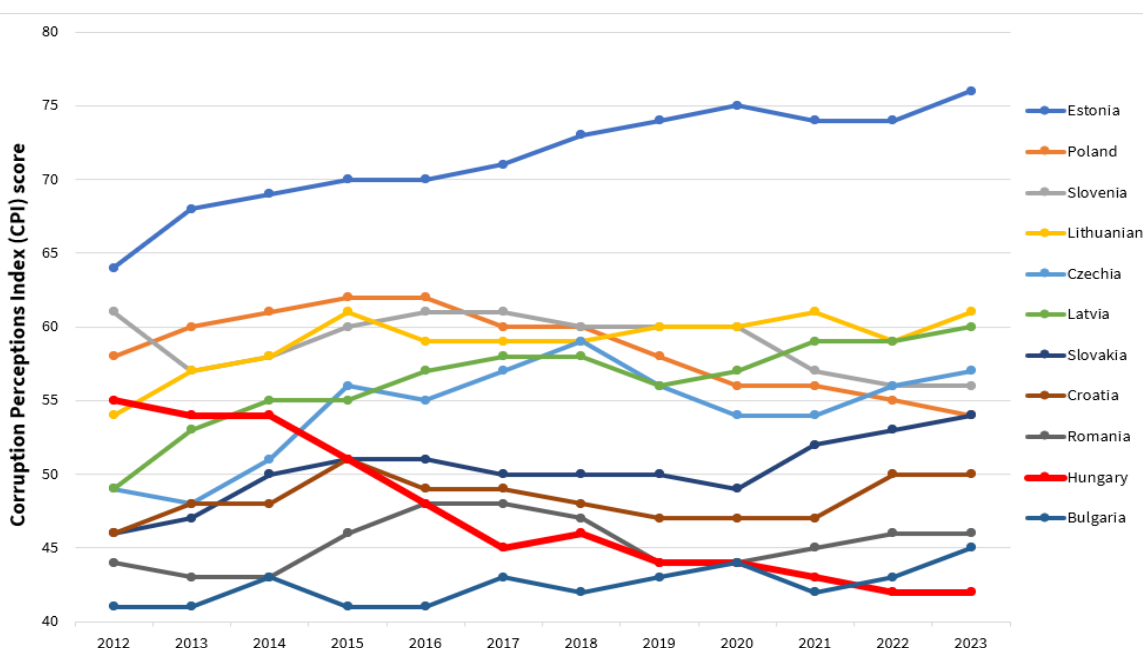
In recent years, Hungary achieved its bottom ranking among the European Union countries in multiple formations: in 2020, it finished in the last place in a three-way tie with Bulgaria and Romania, then

³Transparency International Hungary: Corruption Perceptions Index 2018 (<https://transparency.hu/adatok-a-korrupcirol/korrupcio-erzekelesi-index/cpi-2018/>)

Romania and later Bulgaria improved their ranking. In 2020⁴, it finished in the last place in a three-way tie with Bulgaria and Romania, then in 2021 Romania improved by one point and overtook Hungary.⁵ In 2022 Bulgaria left us behind as well. Hungary is the most corrupt Member State of the European Union for the second year according to the 2022 Corruption Perceptions Index.⁶

Our country is prominent not only in terms of its current position but also in terms of the extent of its deterioration both in the EU and the global ranking. Hungary has slipped by 13 points and 30 places in the corruption ranking compared to 2012 and is now with the most dramatic decrease, tied with Cyprus. Within the European Union, Cyprus' score has fallen from 66 to 53 points since 2012, but the southern European mini-state is consistently ahead of Hungary in terms of scores, last year it finished 11 points ahead of Hungary.

Figure 1: Corruption Perceptions Index scores for Central and Eastern Europe, 2012-2023



Source: TI Hungary calculations based on the Corruption Perceptions Index 2012–2023.

There is a growing divide between the countries of the former Eastern bloc. Estonia also stands out among the Baltic states, well ahead of the regional average—with 76 points, it finished in 12th place, a worldwide top ranking. Alongside the improving performances of the Baltic States—with Latvia and Lithuania up by 11 and 7 points, respectively, since 2012—the Visegrád Four have shown a mixed performance.

Poland's anti-corruption performance, in parallel with the deterioration of the rule of law, has shown a downward trend since 2016. Between 2012 and 2023, its score dropped from 58 to 54 and thus

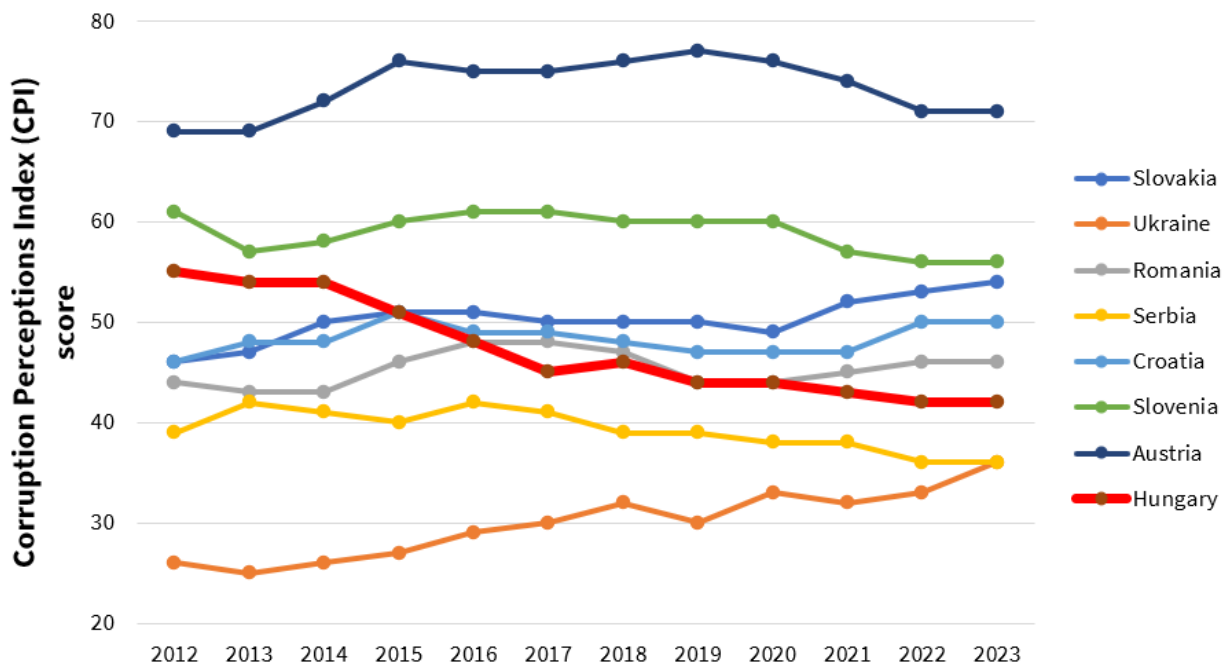
⁴Transparency International Hungary Corruption Perception Index 2020 (<https://transparency.hu/adatok-a-korruptiorol/korruptio-erzekelesi-index/cpi-2020/>)

⁵Transparency International Hungary Corruption Perception Index 2021 (<https://transparency.hu/adatok-a-korruptiorol/korruptio-erzekelesi-index/cpi-2021/>)

⁶Transparency International Hungary Corruption Perception Index 2022 (<https://transparency.hu/adatok-a-korruptiorol/korruptio-erzekelesi-index/cpi-2022/>)

slipped back to 47th place in the international corruption ranking. The performances of the Czech Republic and Slovakia, on the other hand, improved. The increase in the CPI score of the Czech Republic is also outstanding in international terms: by 2023, it had improved by 8 points and 13 places compared to its 2012 score and is now ranked 41st in the world.

Figure 2: CPI Hungary and neighboring countries, 2012-2023



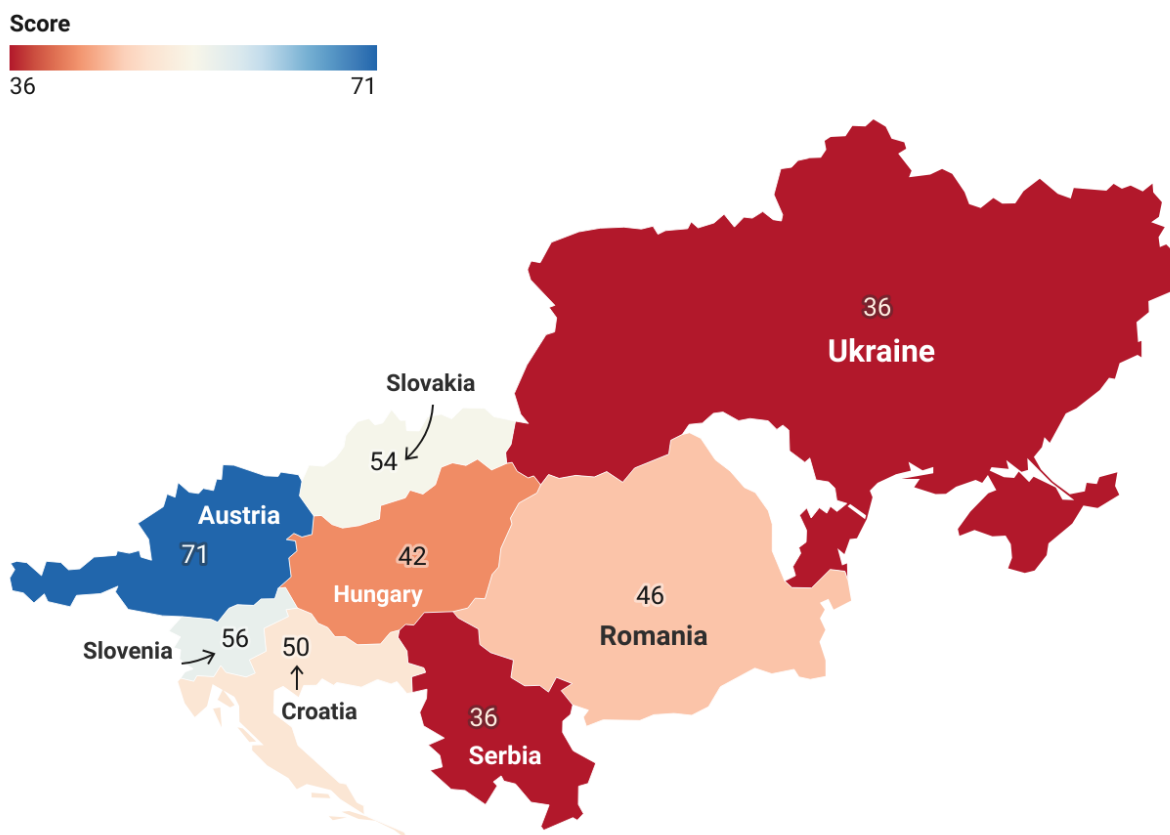
Source: TI Hungary calculations based on the Corruption Perceptions Index 2012–2023.

The development of resilience to corruption in Hungary's neighboring countries has also shown a mixed picture. Austria -- Prime Minister Viktor Orbán's “laboratory”⁷, which Hungary is expected to catch up with in all respects by 2030—, ranks significantly above Hungary. Last year, Austria was 29 points ahead of Hungary, finishing 20th in the international ranking. Although Austria's score has fallen from 77 to 71 since 2019, our western neighbor is still way ahead of its eastern counterparts. Hungary is getting further and further away from Austria; the 14-point gap in 2012 more than doubled by last year.

Among the countries bordering Hungary, Serbia, and Ukraine are tied for last place (36 points each) in 2023. While Serbia's anti-corruption performance has deteriorated since 2016, Ukraine's CPI score has improved significantly in recent years, with both countries ranking 104th with 36 points last year. Since 2012, Ukraine has improved by 10 points and 40 places, from an extremely low level, and thus performed significantly better in 2023 than Russia, which committed military aggression against it in February 2022. (Russia ranks 141st with only 26 points.) However, Ukraine's anti-corruption performance still lags significantly behind that of European Union countries, including Hungary.

⁷Iván Sztójcsev (Hvg.hu): 2030: Az év, amikor utolérjük Ausztriát, Európa legjobb helye leszünk, Orbán pedig nyugdíjba megy (The year we catch up with Austria, become the best place in Europe, and Orbán retires), 14 March 2023 (https://hvg.hu/gazdasag/20230314_2030_igeretek_utolejrujuk_ausztriat_orban_nyugdij_unios_eletszinvonal_kampanyigere_tek)

Figure 3: CPI scores of Hungary and neighboring countries (2023)



Source: TI Hungary calculations based on the Corruption Perceptions Index 2023.

The “historical friendship”⁸ between Serbia and Hungary is also reflected in their CPI scores: Hungary (42 points) and Serbia (36 points) were separated by only 6 points and 28 places last year.⁹

Meanwhile, Hungary is increasingly lagging behind three other neighboring countries: Slovenia with a score of 56 is ahead by 14 points, Slovakia with a score of 54 is ahead by 12 points, and Croatia with a score of 50 is 8 points ahead of Hungary in 2023. These countries have been ahead of Hungary in terms of resistance to corruption since the mid-2010s.

World Map of Corruption

The top and bottom rankings of the Corruption Perceptions Index are often comprised of the same countries. Among the highest scorers, Denmark (90), Finland (87), and New Zealand (85) lead the field the third time. New Zealand lost two points but still retained third place. Norway (84) finished fourth, with the same score as a year earlier, followed by Singapore (83), and Sweden and Switzerland (82)

⁸Csongor Körömi (Telex.hu): *Szijjártó Belgrádban felolvasta szerbül, hogy a magyarok mindig a szerbeknek szurkolnak* (In Belgrade, Szijjártó read in Serbian that Hungarians always cheer for Serbs), 26 May 2023 (<https://telex.hu/kulfold/2023/05/26/szijas-tar-to-peter-serbia-bekemenet-aleksandar-vucic-koszovo>)

⁹The values in brackets after the names of the countries listed represent the 2023 CPI score for that country. A higher score indicates a lower level of corruption.

tied for sixth place. The Netherlands (79), Germany and Luxembourg (78), Ireland (77), and Canada (76) are also in the top ten.

In general, the top-ranking countries are, except for Singapore, all well-functioning democracies that respect the rule of law and where the exercise of public power is in the public interest. Although corruption is not unknown in these countries, the fight against it is successful, as reflected in social and economic indicators as well.

Scores of the G20, which includes 19 of the world's major economies and the African Union, moved on a wide range last year: Russia (26) ranked 141st in the world, the lowest-ranking member of the group, while Germany (78) ranked 9th place, making it the group leader.

There is also a wide variation in the scores of the major powers. In 2023, the United States (69) was ranked 24th in the CPI, down four points and five places compared to 2012. In 2023, China (42) was ranked 76th, the same position as Hungary, although the Far Eastern superpower has seen a slight improvement over the past eleven years, having been ranked 80th in 2012 with 39 points.

At the bottom of the list in 2023 was Somalia (11), preceded by Venezuela, Syria, and South Sudan (all three with 13 points), and Yemen (16). The remaining four countries at the bottom scored 17 points each: Nicaragua, Equatorial Guinea, Haiti, and North Korea. The worst-performing countries in the Corruption Perceptions Index are the same year after year. These are fragile states, mostly dictatorships or anarchies, where the state is weak, the economy is unstable, and the sovereign power that controls its territory is often not the enemy but a breeding ground for corruption.

Evaluating the milestones

As many theoretical and empirical analyses have shown, a government's performance under the rule of law and its credibility in the fight against corruption are interrelated. For some reason, the European Commission was only willing to acknowledge this fundamental truth about Hungary less than two years ago, when it initiated a conditionality procedure against Hungary in April 2022. As a result, by the end of 2022, the requirements, commonly referred to as “milestones” and “super-milestones” were published, which, if met, would allow Hungary to access the funds blocked by the Commission due to the Hungarian government's poor rule of law track-record.

The Commission released EUR 10.2 billion from the Cohesion Fund at the end of December 2023, so Hungary can submit payment claims up to this amount. This decision was motivated by the Hungarian government's judicial reform package.¹⁰ However, due to various reasons, some EUR 21 billion will remain blocked until the Hungarian government meets all the conditions set by the EU, including the 27 “super-milestones” set to fight corruption and restore the rule of law (For more analysis on access to the various EU funds, see our analysis on page 34).

Below, we look at the practical implementation of the main requirements set by the European Union. These include the establishment of the Integrity Authority and the Anti-Corruption Task Force, changes to the rules on access to data of public interest, and the reform of the asset declaration system, as well as measures to strengthen the independence of the judiciary.¹¹ We are not assessing formal compliance with these requirements, as this has already been done in the past, in cooperation with our partner organizations.¹² We are looking to see whether the reforms have improved Hungary's rule of law performance, in particular in the case of the judicial reform resulting in deblocking EUR 10.2 billion. We are anticipating that, unfortunately, the rule of law has not become “miles better” than it was before, at least not to any significant extent. In other words, these measures alone cannot restore the rule of law. The extent of this inability is illustrated by the new, recently invented government action plan called “sovereignty protection”, on which we also express our views at the end of this chapter.

Integrity Authority: flagship without sails and propeller

The Integrity Authority was certainly intended by the government and the EU to be the flagship of anti-corruption measures. Established as an autonomous state agency, the Authority is formally independent of the government, but in its operations it relies on other government agencies. While it is supposed to fight against abuses of EU funds, it cannot take any action itself if it detects irregularities within its remit, as it has very limited powers to deal with specific infringements. Primarily, it publishes reports, for example, on the proper functioning of the asset declaration system and public procurement, all this in the context of the regularity of the use of EU funds. It also reports on the integrity situation in general. However, if it investigates an individual case and detects abuse, it is obliged to ask another competent authority to clarify the matter.

¹⁰European Commission: The Commission considers that Hungary's judicial reform addressed deficiencies in judicial independence, but maintains measures on budget conditionality, 23 December 2023. (<http://tinyurl.com/4rm6avtr>)

¹¹Transparency International Hungary' detailed policy recommendations are available in the White Book published in December 2023 [Fehér Könyv – Van kiút a rendszerszintű korrupcióból?] (https://transparency.hu/wp-content/uploads/2023/12/TI_Hu_feherkonyv_web-1.pdf).

¹²Amnesty International Hungary – Eötvös Károly Institute – Hungarian Civil Liberties Union – Hungarian Helsinki Committee – K-Monitor – Transparency International Hungary: Assessment of compliance by Hungary with conditions to access European Union funds, (<http://tinyurl.com/3hhfkx3n>) and Summary Table, April 2023 (<http://tinyurl.com/4e73xdcpc>)

A year ago, we believed that if the leadership of the Integrity Authority was committed, able, and willing to engage in conflict with the government and the state institutions that the government has captured, it could help reduce corruption.¹³ The basic conditions are in place, including a generous budget and sufficient personnel. In 2023, the Integrity Authority had a budget of over HUF 17 billion and a staff of 62.¹⁴ According to its figures, it received 186 notifications in its first year of operation and had investigated a total of 21 cases up to December 2023, with a combined value of EUR 315 million.¹⁵ Unfortunately, its real leverage is more accurately reflected in the government's reception of its reports and the recommendations they contain, rather than these numbers of bureaucratic optimism. Of the almost 50 recommendations made in the so-called annual analytical integrity report, only a dozen were supported by the government, while the government did not agree with 23 recommendations at all and did not undertake any action on them.¹⁶ The government, among other things, was unwilling to introduce a methodology to compare public procurement prices with market prices or to make the process for dealing with irregularities in EU funding public.¹⁷ Since the proposals it puts forward are not binding on the government, the Integrity Authority has no other option but to publicly express its regret at the government's rejection.¹⁸ We believe that, if the Integrity Authority is condemned to the role of an Ombudsman, it should behave like a real Ombudsman and alert the public to the government's refusal to put in place the measures needed to curb corruption.

The situation is no better in the Anti-Corruption Task Force set up alongside the Integrity Authority, which, in a leap of faith, TI Hungary is a member of. The Task Force also suffers from a lack of powers: it cannot investigate specific allegations of corruption and cannot ask for information on whether the authorities responsible for fighting abuses are doing their job properly. The Task Force would only be effective if it were taken seriously not only by its civil society members but also by the public authorities. Unfortunately, this condition is not met. Notably, the government has not involved the Task Force in the development of the anti-corruption strategy, which has been under preparation for more than a year, and the Task Force is not informed about draft legislations affecting its purview, as illustrated by the adoption of the new law on whistleblower protection.¹⁹

The only specific task of the Anti-Corruption Task Force is to prepare an annual report assessing the corruption situation in Hungary. The first report for the year 2022 was published on 15 March 2023.²⁰ The government's reception of the findings and recommendations of the report was no better than that of the Integrity Authority's annual report. Unsurprisingly, the government did not endorse the more sensitive proposals that did not have the support of the public members of the Task Force. These included ideas to enact reforms to fundamentally improve access to public interest data or to review the reform of criminal procedure to allow for the possibility of privately prosecute corruption cases.²¹

¹³Transparency International Hungary (Korrupció.hvgblog.hu): Integritás Hatóság és Korrupcióellenes Munkacsoport: Valódi küzdelem a korrupció ellen vagy szemfényvesztés az uniós pénzekért? (Integrity Authority and Anti-Corruption Task Force: A real fight against corruption or smoke and mirrors for EU funds?) 26 September 2022 (<http://tinyurl.com/b97j5afu>)

¹⁴See the budget of the Integrity Authority (<http://tinyurl.com/bdz73beu>)

¹⁵Zoltán Baka F. (24.hu): A mesterséges intelligenciát vetné be az Integritás Hatóság a vagyonynyilatkozatoknál (The Integrity Authority would use artificial intelligence for asset declarations), 6 December 2023 (<http://tinyurl.com/6kb222tw>)

¹⁶Integrity Authority: Annual Analytical Integrity Report 2022 (<http://tinyurl.com/bdz73beu>)

¹⁷The Prime Minister's Office response EUFÁT/57 (2023) to the Integrity Authority's Annual Analytical Integrity Report (<http://tinyurl.com/yvjdjpkj>)

¹⁸Integrity Authority: The position of the Integrity Authority on the Government's responses (<http://tinyurl.com/4ws4mdc2>)

¹⁹Act XXV of 2023 on complaints, public interest disclosures, and rules relating to the reporting of abuses

²⁰Anti-Corruption Task Force Report 2022 (<http://tinyurl.com/mvz24s4h>)

²¹The government's position was sent directly to the Anti-Corruption Task Force by the Ministry of Interior, attached to document BM/3642/2023, dated 24 May 2023, and TI Hungary has the document in its possession

Freedom of information: strong decline after a weak start

After 2010, the government deliberately dismantled the legal and institutional framework for freedom of information. As a result of the legislative changes aimed at reducing the extent to which this fundamental freedom is enjoyable, public authorities and organizations using public money can now invoke, among other things, the protection of future decisions, the trade secrets of their suppliers, and the precedence of copyright to refuse to answer questions submitted to them, while the data applicant can only ask the same question only once a year.

The government has not only withdrawn a handful of restrictions but has also introduced some new provisions to strengthen public access to information, as a result of the rule of law conditionality mechanism. On the positive side, public authorities are no longer allowed to make requests for information subject to the advance payment of an unlimited fee, and for more than a year now they have not been able to cheat with the 15/45 days of response time for information requests. Also welcome is the new obligation for courts, at least in principle, to deal much more quickly with lawsuits over denied data requests.²²

However, the legislative changes forced by the EU did not change the government's negative reflexes towards publicity. In addition, the government did not even pretend to stop the deliberate destruction. On the one hand, it strengthened the protection of business secrets, so to speak, which provides another tool for secrecy, and on the other hand, the most severe legal restrictions remained unchanged, so the practical benefits of the reforms seemed to be minimal from the outset.²³ Even more disappointingly, the government has not given up with the restriction of fundamental at all, since in December 2023, it enacted nearly half a dozen, legal provisions to restrict transparency. Of course, there was no public consultation on the new regulations, which were adopted in true Orbán-fashion, bundled-up in so-called “omnibus” laws. Based on the newly adopted provisions, the authorities are no longer obliged this year, among other things, to fulfill a request for information that is not aimed at data held directly by them, but by their subordinate entities, although based on previous practice, the requested data had to be collected in such cases. State-owned enterprises, among other things, were authorized to keep the data of their foreign investments secret for ten years, while the government can block some of its decisions for twenty years instead of the previous ten years.²⁴

Asset declarations? Oh, come on now!

There has been no progress on Hungary's absurd asset declaration system, either. Except for Members of Parliament and the most senior public decision makers, asset declarations are still only accessible to the official superiors of the declarant, and there is a complete lack of serious scrutiny. Whether it is the high-profile asset declarations made by Members of the Parliament or members of government, or those made by judges, municipal representatives and mayors, prosecutors, or employees of various public organizations, there is virtually no verification of the declarations. In the absence of real sanctions, there are no serious consequences for those who make incomplete declarations either:

²²See the provisions of Act CXII of 2011 on the right to informational self-determination and the freedom of information, as laid down by Act XXXVIII of 2022, Act XL of 2022, Act XLIV of 2022, and Act LVI of 2022.

²³Transparency International Hungary: *Közérdekű adatigénylések: a szabályozás változik, az áttörés elmarad* (Public interest data requests: regulation changes, breakthroughs yet to come), 20 October 2022 (<http://tinyurl.com/7946nxka>)

²⁴Tibor Lengyel (Hvg.hu): *Szinte titokban kapott duplaannyi időt döntések eltitkolására a kormány, és mással is trükközhet* (The government has covertly been given twice as much time to conceal decisions, and may be up to other tricks as well), 15 January 2024 (<http://tinyurl.com/s7bpwhdu>)

additions or clarifications are sufficient, and serious accountability never takes place. For this reason, the declarations do not allow for the monitoring of enrichment disproportionate to lawful revenue.

The government pledged to reform the asset declaration system in 2022, but the breakthrough has been so far behind that the result is even worse than the initial situation. The changes made require public officials to declare their income only, and not even by indicating the exact amounts, but only in broad ranges. The pseudo-reform eventually resulted in a partial restoration of the previous asset declaration system. However, as a result of the many changes which are still in force today, the declarants do not have to declare the residential property they use, and income is only declared by the indication of broad ranges.²⁵

In practice, the vague provision obliging the Members of Parliament to publish their declarations of assets not only in handwritten form but also in a machine-searchable format is not working either.²⁶ For the time being, we cannot even decide whether to laugh or cry at the latest development. The Office of the Parliament has ordered that the names of MEPs' relatives must be removed from their asset declarations with retroactive effect to 2012. Thus, the names of Klára Dobrev, wife of Ferenc Gyurcsány, and Anikó Lévai, wife of Viktor Orbán, have now become secret.²⁷

For all these reasons, asset declarations in their current form make no sense, and the fact that the Integrity Authority has been mandated to verify the asset declarations of senior public officials does not make any difference.²⁸ The detailed provisions have not been defined in more than a year, so it is not surprising that no investigations into asset declarations have been launched so far. However, the Integrity Authority has also published a report on asset declarations.²⁹ TI Hungary supports the recommendations made in this report, as they are almost identical to those we have been advocating for more than a decade.³⁰ Given the reception of the Integrity Authority's reports and recommendations so far, we would be surprised – to put it mildly – if the government were suddenly to introduce an electronic asset declaration system, create automatic state control of asset declarations, and take measures to ensure strict sanctions for failures to comply.

A judicial reform worth EUR 10 billion

A key issue for reforms to strengthen the rule of law is strengthening the independence of the judiciary. Of course, even genuinely independent courts cannot help if the authorities responsible for fighting corruption do not do their job, as no convictions can be handed down in the absence of indictments. Nevertheless, the NER-regime has much to fear from an autonomously adjudicating judiciary. Judicial decisions without interference could lead to the disclosure of information that the government wishes to keep secret, or to the failure of priority investments already approved by politicians. This is why the government attaches so much importance to the capture of the courts and the filtering of cases that come before them.

The possibility of bringing a private prosecution in corruption cases also relate to judicial reform, as it creates judicial control over investigations and prosecutions, and over the failure to bring them. TI Hungary was much more skeptical than others about the likelihood of success of the criminal

²⁵The amendments were introduced by Act XVIII of 2022 and partially repealed by Act XXXI of 2022.

²⁶Article 94(2) of Act XXXVI of 2012 on the National Assembly

²⁷Éva Magyar: (Rtl.hu): Módosították az országgyűlési képviselők vagyonyilatkozatát, csorbulhat az átláthatóság (The asset declaration of Members of Parliament has been amended, and transparency may be compromised), 13 January 2024 (<http://tinyurl.com/28bc65n2>)

²⁸Article 5(6)-(7) of Act XXVII of 2022 on the control of the use of European Union budget funds.

²⁹Integrity Authority: Ad hoc report on asset declarations 2023 (<http://tinyurl.com/3w9m68v8>)

³⁰Transparency International Hungary: Minimum requirements for asset declaration (<http://tinyurl.com/yc86jcan>)

procedure reform to break the prosecution's monopoly on corruption charges.³¹ Experience has confirmed our pessimism about the viability of the new legal solution. The information sent by the National Office for the Judiciary to the Anti-Corruption Task Force showed that by 31 October 2023, only 22 complaints had been filed. The court had ruled against 15 of the 17 cases already settled, meaning that there were only two cases where law enforcement agencies had been ordered to initiate or continue previously discontinued criminal proceedings. No indictments have been filed yet.³² Five of the complaints were filed by the Integrity Authority. These numbers reflect anything but a breakthrough.

The Commission also expected the government to make changes in the areas of case management and judicial administration. To meet these expectations, the government adopted a judicial reform package that repealed some blatantly irritating provisions that undermined the independence of the courts.³³ For example, government agencies can no longer challenge unfavorable court rulings before the Constitutional Court, which acts as an arm of the government, and members of the Constitutional Court can no longer apply for automatic judicial appointment to the Curia. The government has also withdrawn the provision under which judges who had commenced a so-called preliminary reference procedure at the Court of Justice of the European Union were threatened with disciplinary proceedings.³⁴ The most impactful measure of the judicial reform was the major strengthening of the powers and organization of the National Judicial Council (NJC), which is elected by the judges from among themselves. Elected in 2018 with a six-year mandate, the NJC has become a symbol of the courts' resistance to arbitrary interference. However, it is questionable whether the new members of the NJC, who were recently elected and take office two days after the publication of this report, will continue on the path paved by their predecessors, or whether they will develop a less confrontational approach to the judicial leadership.³⁵

Yet reforms imposed by the Commission is inadequate to restore the autonomy of the judiciary. It does not address several risky areas, such as the rules of the case allocation system at lower-level courts outside the Curia, or the anomalies surrounding the promotion and remuneration of judges. Moreover, it does not provide a comprehensive solution even in the areas covered, such as the case allocation system in the Curia, i.e., the mechanism by which an individual casefile is allocated to the adjudicating panel, which still does not exclude the possibility of arbitrary interference.³⁶ The main problem, however, is that the reform is overdue. In the 14th year of the NER-regime, the courts are finding it increasingly difficult to extricate themselves from the government's influence. The fact that the majority of court leaders took office after 2010 also makes it difficult to upkeep autonomy, and while there is no reason to assume that they are all loyal to the government, it would be hard to deny that the in the NER-regime professionals who are not critical of the government are typically placed in senior positions. Nevertheless, TI Hungary has long believed, and still believes, that the courts are the

³¹Miklós Ligeti (Korrupció.hvgblog.hu): Kormányzati mosolyoffenzíva Brüsszel lehengerlésére? (Government charm offensive to wow Brussels?) 20 July 2022 (<http://tinyurl.com/mvw97v7r>)

³²Letter No. 2023.OBH.XXI.I.33/6. dated 30 October 2023 from the President of the National Office for the Judiciary

³³Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan

³⁴Article 35 of Act LXXXV of 2023 on amending certain Acts necessary for strengthening the interconnection of universities and research institutions and the economy, and certain Acts on adult education and culture.

³⁵György Kerényi (Radio Free Europe): „A bíró a saját függetlenségét megvédheti” (“Judges can defend their own independence”): Tamás Matusik, the outgoing President of the National Judicial Council, 16 January 2024 (<http://tinyurl.com/2uecfwm5>)

³⁶The anomalies in the judicial case allocation system are described in detail in Chapter I/A/5 of the contribution to the Commission's 2024 Rule of Law Report, submitted jointly by NGOs. Amnesty International Hungary – Eötvös Károly Institute – Hungarian Helsinki Committee – Mertek Media Monitor – K-Monitor – Ökotárs (Hungarian Environmental Partnership Foundation) – Political Capital – Hungarian Civil Liberties Union – Transparency International Hungary: Contributions of Hungarian CSOs to the European Commission's Rule of Law Report, January 2024 (<http://tinyurl.com/2srr889h>)

last line of defense of the rule of law and democracy in Hungary. However, the cracks in the walls are already showing, and the reforms forced by the EU can only slow down this erosion, and hardly reverse it.

Sovereignty protection nonsense

By freeing up EUR 10.2 billion in December 2023, the Commission has significantly reduced its room for maneuvering with Hungary. Indeed, the EUR 10.2 billion will not be paid to the Hungarian budget all at once, but in several installments, against invoices, as post-financing of specific projects. For this reason, irregularities, such as overpricing, cannot be completely ruled out. As soon as the EU funds were within reach, the Hungarian government, not caring about appearances, adopted the Sovereignty Protection Act, and as one of the first measures taken by President of Hungary Katalin Novák this year, appointed Tamás Láncki as President of the Sovereignty Protection Office, which is currently being set up.³⁷

TI Hungary has on several occasions expressed its views on what is wrong with the latest government proposals to protect sovereignty. For example, we have argued that Fidesz has created a new authority that is nonsensical, contrary to the Fundamental Law, violates fundamental EU standards (such as the principle of free flow of capital among the four freedoms), and costs taxpayers a lot of money.³⁸ The Sovereignty Protection Office, with the power to harass anyone and anything, will provide a public backdrop for smear campaigns in the government's interests. Individuals and organizations considered enemies by the government are used to a constant hate campaign against them. In the future, they are also likely to receive special attention from the Sovereignty Protection Office, which may range from requests for information on their activities to the publication of reports on them, more than likely not portraying their activities favorably, or even summoning them to appear before the Parliament's Committee on National Security.

While the Integrity Authority, at least according to the information given to the members of the Anti-Corruption Task Force, is still struggling with a lack of access to public records necessary for its operation more than a year after its creation, the Sovereignty Protection Office is not facing such difficulties. The law allows it to access all kinds of data, including classified information, and even indirectly use the secret services to carry out its tasks. This shows that the government, if its interests so require, can regulate access to data and the corresponding powers of the state agencies precisely and efficiently.

In lieu of conclusions

Thanks to András Láncki, former Rector of Corvinus University and once a chief ideologue of the NER-regime, we know that “what is called corruption is, in fact, the main policy of Fidesz”. And no government goes against its main policy. For this reason, the anti-corruption package adopted in the wake of the EU's rule of law procedure cannot be expected to eliminate the abuses and favoritism that are the cornerstones and fundamentals of the NER-regime. At most, the individual reform measures may somewhat hamper the unchanged functioning of the NER-regime; for example, the National Judicial Council (NJC), with its enhanced powers, may create obstacles to the subordination of the courts.

However, looking at the reforms as a whole, it is clear that too little has been done and, above all, too late. The fact that anti-corruption laws adopted under EU pressure have been half-hearted at best is

³⁷See Act LXXXVIII of 2023 on the Protection of National Sovereignty, and Decision 2 of 2024 of the President of Hungary.

³⁸Transparency International Hungary: 12 pont, avagy mi a baj a Fidesz szuverenitásvédelmi javaslatával? (12 points, or what is wrong with Fidesz's sovereignty protection proposal?) 29 November 2023 (<http://tinyurl.com/25rfr3yn>)

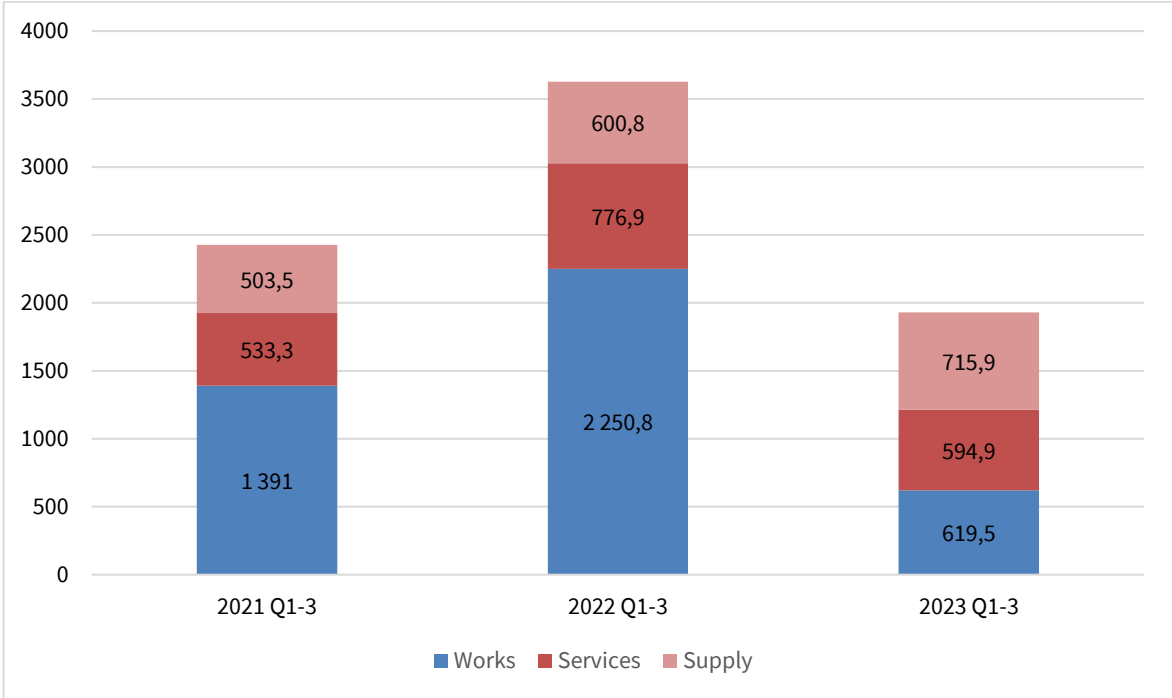
no accident. The Orbán government's goal is not to restore the rule of law and curb corruption but also to gain the fullest possible access to EU funds, and it will therefore always be balancing between compliance with EU law and the pursuit of the regime's interests. It doesn't take much foresight to predict that if there is a conflict between the two, the latter aspect will prevail.

Performance of the procurement system

In recent years, public procurement has become a commonly used route to siphon off public funds. In a report last year, the Integrity Authority admitted that the Hungarian public procurement system is “dysfunctional and cost-increasing.³⁹ Although the regulatory framework for public procurement is of a high quality, the practice and its monitoring fall short of expectations.

Public procurement has been a major source of public and municipal contracts for private companies in recent years, although 2023 has broken the trend of recent years. The value of realized public procurement contracts fell by almost half in the first three quarters, from HUF 3,628 billion to HUF 1,930 billion, due to the investment stop and lack of funding. The decline in construction is even more striking, with the total value of public procurement contracts falling to a third of the previous year's level.

Figure 4: Total value of public procurement tenders by nature of contract (HUF billion)



Source: Flash reports of the Public Procurement Authority⁴⁰

A significant part of the commitments agreed in the EU Recovery Plan and the conditionality mechanism are aimed at reducing systemic corruption in public procurement.⁴¹ However, the implementation of corrective measures is falling short of expectations on several points. As

³⁹See the Integrity Authority's integrity risk assessment report on the Hungarian public procurement system, March 2023 (<https://tinyurl.com/33p7mk3p>)

⁴⁰Public Procurement Authority: Flash Report—Public procurement in figures, quarters I-III 2021, I-III 2022, and I-III 2023 (<http://tinyurl.com/y2jvcwvx>). Annual data were not yet available at the time the report was completed

⁴¹See the Annex to the proposal for a Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Hungary (<http://tinyurl.com/362rbyvs>)

highlighted in the Commission's reassessment of 13 December 2023, “significant weaknesses, risks, and gaps remain.”⁴²

No competition

Several milestones have been taken to address one easily identifiable and long-criticized feature of the domestic public procurement market: the high proportion of single-bid tenders, i.e., where the bidding organization has virtually no competitors. Hungary has long been one of the worst performers among Member States in the area of large-value (so-called above-threshold) public procurements. The most recent international comparison, from 2021, shows that in 40 percent of the public procurement contracts examined, only one company submitted a bid.⁴³ This ranks us third worst among Member States. The government has to reduce the share of single-bid tenders in the overall public procurement market, including domestic and EU-funded procurement, to 15 percent by March 2026. This will be more challenging for domestically funded tenders, where the share of single-bid tenders will have to be gradually halved from 31.3 percent in 2022.⁴⁴ Meanwhile, the correction process for EU-funded procurements, where the award of a contract is often conditional on multiple competing bids, has started from a much more favorable level, and the target was reached by the end of 2022.

However, the improvement in the proportion of single-bid tenders is not sufficient to restore competition. This condition can be easily circumvented by collusion between bidders and the tailoring of tenders. Moreover, in the highly concentrated domestic public procurement market, some pro-government players have cemented themselves in an immovable leading position, far above their competitors, which is not offset by the measures recently introduced.

TI Hungary's Tender Champions project and website examined a total of HUF 12,700 billion worth of public procurement contracts carried out between 2019 and 2021.⁴⁵ Among the owners of the winning companies, Lőrinc Mészáros and László Szíjj are by far the most prominent; through their companies, they received 8.9 and 6.6 percent of the total public procurement volume in the period under review, mostly through construction projects. Ferenc Kis-Szölgyémi's three companies, known mainly for their cleaning services and therefore also referred to in the press as "court sweepers", won a total of almost HUF 585 billion in public procurement. Gyula Balásy, slipping off the podium, won contracts worth around HUF 295 billion in the period under review, also through his three companies. 99 percent of the total received funds (HUF 293 billion) won by Lounge Design, New Land and Media Dynamics Ltd. were awarded for more than 300 contracts from the National Communications Office (NKOH).

In some sectors, such as communications, IT, and other services procurement, framework agreements with central purchasing bodies (for example, the National Communications Office and Digital Government Agency) have helped pro-government entities become market leaders. Although the Commission has expressed concerns about the framework agreements' restrictive effect on competition, the remedies proposed by the government largely ignore the rethinking of framework agreements and the role of central purchasing bodies. At the same time, the EU milestones have at least allowed “damage assessments” to begin. A government study on the performance measurement

⁴²Commission decision of 13.12.2023 on the reassessment, on the Commission's initiative, of the fulfillment of the conditions under Article 4 of Regulation (EU, Euratom) 2020/2092 following Council Implementing Decision (EU) 2022/2506 of 15 December 2022 regarding Hungary (<http://tinyurl.com/3ykcx6j2>)

⁴³See Single Market Scoreboard indicator 1 on public procurement (<https://tinyurl.com/2p9nfjdd>)

⁴⁴Prime Minister's Office, Deputy State Secretariat for Public Procurement Control: Analysis of the evolution of single-bid tenders, 2018–2022 (<http://ekr.gov.hu/portal/hirek/8798091965784>)

⁴⁵See the TI Hungary Tender Champions database (<http://tenderbajnok.transparency.hu/>)

framework to assess the efficiency and cost-effectiveness of public procurement has shown that the number and share of framework agreements in public procurement have been on a gradual and sustained upward trend in recent years. The related Task Force highlighted among its recommendations the need for “further analysis” of the activities of central purchasing bodies, and in particular of the National Communications Office, given the “lack of a broad competitive environment and insufficient thoroughness in the preparation of procedures for framework agreements, as indicated by the available data and the replies to the questionnaire.”⁴⁶

Hiding assets

The fact that, in many cases, it is not possible to know who the real owners of the bidding entities are, even though this would be essential for investigating conflicts of interest, undermines transparency and makes it difficult to assess corruption risks. In recent years, the number of private equity funds in Hungary has grown exponentially, and investment forms that conceal the beneficial owners have also appeared among public procurement bidders. In TI Hungary's view, this violates the requirements of Article 38 (4) and Article 39 (2) of the Fundamental Law, which stipulate that public funds and national assets must be managed under the principles of transparency and public accountability. In 22 of the 2,541 companies examined in Transparency International Hungary's Tender Champions project, 15 private equity funds had a stake in 2022. The companies owned by these private equity funds won public tenders worth a total of HUF 608 billion, 4.8 percent of the total value of all tenders examined. Among the private equity fund managers were companies linked to Prime Minister Viktor Orbán's son-in-law, István Tiborcz.

Another way of concealing wealth is to use preference shares, which entitle the holder to an earlier or higher payout from the company's profits than other shareholders. G7.hu has revealed that a trust company linked to László Szíjj bought preference shares in Soltút Zrt. in 2022, formerly owned exclusively by Kálmán Rencsár, and received 70 percent of the dividends paid.⁴⁷ According to Tender Champions database, Soltút won more than 260 contracts between 2019 and 2021, worth around HUF 231 billion in public money.

Measures to obtain EU funds have not yet brought a turnaround in the control of public procurement. The most significant progress has been the creation of the Integrity Authority, but its effectiveness depends largely on the willingness of the other long-established—and not exactly independent—control institutions to cooperate.⁴⁸ The protection of public funds remains, or would remain, essentially the responsibility of the existing public authorities. Several cases justify the use of the conditional mode, such as the rejection by first the police, then by the prosecution and the court of the Integrity Authority's motion for an investigation into the fact that three companies— Strabag General Construction Ltd., KIFÜ-KAR Zrt. and VILL-KORR Hungária Villamosipari Kft. - had won almost

⁴⁶Prime Minister's Office, Deputy State Secretariat for Public Procurement Control: A közbeszerzések hatékonyságát és költséghatékonyságát értékelő teljesítménymérési keretrendszer eredményei (Results of the performance measurement framework to assess the efficiency and cost-effectiveness of public procurement), 2019–2022 (<https://ekr.gov.hu/portal/hirek/8798092096856>)

⁴⁷Zoltán Jandó (G7): *Így lesz az állami tenderekből milliárdos luxusjacht* (How public tenders turn into billion-dollar luxury yachts) (<https://g7.hu/vallalat/20230911/igy-lesz-az-allami-tenderekbol-milliardos-luxusjacht/>)

⁴⁸Amnesty International Hungary – Eötvös Károly Institute – Hungarian Helsinki Committee – Mertek Media Monitor – K-Monitor – Ökotárs (Hungarian Environmental Partnership Foundation) – Political Capital – Hungarian Civil Liberties Union – Transparency International Hungary: Contribution of Hungarian CSOs to the European Commission's Rule of Law Report (Magyarországi civil szervezetek részvétele a Bizottság jogállami jelentésének az elkészítésében), January 2023 (<https://tinyurl.com/mr35zmzv>)

all public contracts in Győr without competition.⁴⁹ Furthermore, despite TI Hungary's complaint about the financing of the canopy walkway project, the Hungarian authorities have not yet investigated the case, while OLAF has already started to investigate it.⁵⁰

Competition in public procurement is also hampered by the fact that the so-called “tenders under Article 115 of the Public Procurement Act” continued to be significant, accounting for almost a quarter of all the tenders by national procedure in 2022. This provision can be used by contracting authorities for works below a threshold of HUF 300 million. This type of procedure is particularly suitable for avoiding pure competition, as only the companies invited by the contracting authority may apply, and only one of them needs to submit a tender.⁵¹ This type of procedure is often associated with infringements that hinder fair competition, and the Integrity Authority has also proposed to reform or abolish this form of public procurement⁵², but the government has not agreed with this proposal.⁵³ An examination of public procurement data easily shows that some companies specialize in 115 procedures. For example, Grep Green Public Lighting Zrt., named in the OLAF report on the Elios scandal⁵⁴, and Oriental Lux Kft., which belongs to the same ownership group, have won municipal tenders for upgrading street lighting almost exclusively through such procedures year after year. Out of a total of 23 contracts awarded to the two companies since 2019, the contracting authority has chosen this type of procedure in 21 cases, with the wording of the procedures often being identical.⁵⁵

From the point of view of risk analysis and transparency, it is a welcome development that access to public procurement data has been slightly improved thanks to the measures taken under the EU conditionality procedure, allowing mass access to the data of result notices. However, as pointed out in the Integrity Authority's 2022 report, the level and the quality of completion and information content of manual data records in the Electronic Public Procurement System (EPS) varies, suggesting that further systematic data monitoring by the Public Procurement Authority is needed.⁵⁶ The fact that the required data content is still not available in its entirety for mass downloading complicates the examination. Some other things that should be made more easily available are the reference number of EU grants associated with the procedures, the names and identifiers of unsuccessful tenderers, the justification of exceptional procedures, the final value of contracts, and information on direct purchase orders based on framework agreements. Data on the exact value of the share of consortiums are also held by the Authority but are not publicly available, although they would provide useful information for assessing the concentration of the various market players. Meanwhile, the accessibility of the information contained in the more comprehensive database maintained by the Public Procurement Authority (available at www.kozbeszerzes.hu) is hampered by the presence of Captcha codes in the contract award notices.

⁴⁹Eszter Katus (Átlátszó.hu): *Hiába lépett fel az Integritás Hatóság, a süllyesztőbe került a győri tenderkirály-ügy* (Despite action by the Integrity Authority, the tender king of Győr case has gone down the drain), 24 August 2023 (<https://tinyurl.com/3yddrv8a>)

⁵⁰Péter Urfi (444.hu): *Vizsgálatot indít az OLAF a híres lombkoronaszétány miatt* (OLAF opens investigation on the famous canopy walkway), 17 September 2023 (<https://tinyurl.com/4u85z827>)

⁵¹Eszter Katus (Átlátszó.hu): *Meghívásos közbeszerzések: így bábozzák el a tisztességes versenyt* (Restricted tendering: how to fake fair competition) (<http://tinyurl.com/35xz8sp2>)

⁵²See footnote 16

⁵³See government views on the findings of the Integrity Authority's Annual Analytical Integrity Report 2022 (<http://tinyurl.com/mw3b9bf2>)

⁵⁴Zsolt Kerner (24.hu): *Tiborczék tényleg nem foglalkoztak azzal, hogy észreveszik majd a csalást* (The Tiborczes really didn't care that their fraud would be noticed) (<http://tinyurl.com/52xna7nh>)

⁵⁵See the relevant result notices (<http://tinyurl.com/5n7rvr8v>) and (<http://tinyurl.com/ydjsuhbp>)

⁵⁶See footnote 16

No turning point in sight

The action plan adopted by the government to increase competition in public procurement does not offer any hope of a turnaround.⁵⁷ Among some minor measures, it includes two important new elements: full anonymous access to public procurement documents in the EPS for economic operators and a reduction in appeal fees. However, the proposal as adopted only reduces the maximum amount of the appeal fee, i.e., it will only reduce the appeal fee for public contracts with an estimated value of more than HUF 3.5 billion. The action plan also introduced subsidies to encourage the involvement of SMEs. However, these grants also raise suspicions of fraud in some cases, as K-Monitor's analysis has shown, as they may have been used by tenderers who entered public procurement solely for the subsidies.⁵⁸ About the grants, the Commission “sent observations to Hungary before the start of the tendering procedure (on 15 March, 5 April, and 20 October 2023), identifying weaknesses in the design of the grant scheme that put compliance with the commitments made in the corrective action at risk.”⁵⁹

In addition to this, it is important to note that the government regularly and abusively exempts significant tenders from traditional public procurement procedures. One way to avoid publicity is to exempt the tender from public procurement rules on the grounds of national security.⁶⁰ In these cases, the reason for using the exemption is often questionable. It is difficult to explain, for example, why secrecy was necessary for the purchase of the economically troubled private construction project known as the “Zugló pit”. Unless, of course, it was to ensure that the crony circles could benefit from the contracts and to bail out pro-government businessmen who found themselves in difficulty.⁶¹

The excessive use of concession contracts has also led to extreme concentration in certain segments. In these cases, the selection of the contractor was seemingly a public procurement procedure, but in practice, the tendering process was designed to hand over entire sectors to a single economic interest group. In both the highway and the municipal waste management concessions, the 35-year duration is too long and too restrictive of competition, and the detailed reasoning is not made public either. TI Hungary initiated lawsuits and won them, and on our initiative⁶², the European Commission is investigating both cases.⁶³

⁵⁷See Government Decision No. 1118/2023 (of 31 March 2023)

⁵⁸K-Monitor: The year of missed opportunities: Where are the anti-corruption reforms promised to the EU?, 6 November 2023 (<http://tinyurl.com/yckt5pys>)

⁵⁹See footnote 41

⁶⁰See Article 9(1) - (2) of Act CXLIII of 2015

⁶¹Népszava.hu: *Az MNV nem titkolhatja tovább Tiborczi üzletársának 244 milliárdos szerződését a Bosnyák téren ásott hatalmas gödörről* (MNV can no longer hide the 244 billion contract of Tiborczi's business partner on the huge pit dug in Bosnyák Square), 22 August 2023 (<https://tinyurl.com/2zdc6w54>)

⁶²TI Hungary: *Jogerős! Az államnak ki kell adnia a szemétszállításról szóló, 35 évre megkötött koncessziós szerződés most még titkolt mellékleteit* (It's final! The government must publish the annexes to the 35-year waste collection concession contract, which are still secret) (<https://tinyurl.com/mr7apffw>), and *Közzétesszük a 35 éves sztrádakoncesszió háttérszámításait* (We publish the background calculations for the 35-year highway concession) (<https://tinyurl.com/3c2sjdyk>)

⁶³Tamás Wiedemann (Radio Free Europe): *Az autópálya- és hulladékconcesszió mellett a jegybankot is vizsgálja az Európai Bizottság* (In addition to the highway and waste management concessions, the European Commission is also investigating the Central Bank), 17 April 2023 (<https://tinyurl.com/yr6syenu>)

High corruption, low economic performance - Hungary in the lower house of the EU

Mostly sanding, sometimes greasing

According to numerous academic studies and policy analyses, the level of corruption in a country is correlated with economic performance.⁶⁴ Corruption, as a major cause and consequence of “bad governance”, tends to “sand” the wheels of the economy. The systemic abuses go hand in hand with the erosion of the rule of law. If a captured institutional system, which secures the power of the ruling elite, does not prosecute but tolerates or encourages corruption—at least corruption that serves the momentary interests of the elite—it often leads to economic loss and increased inequality. In this case, the oligarchs, leading politicians, cronies, and generally the loyal economic actors and citizens will have more power and wealth, while another significant part of society—unable or unwilling to take such an 'oath of allegiance'—will not benefit from the gains, or just to a limited extent.

If access to resources and welfare are dependent on the favor of the state, this leads to undermining fair competition and meritocracy, and the proliferation of rent-seeking behavior. A worsening business climate could lead to a decline in investment, which undermines sustainable growth. One academic work on quality governance concludes that the systematic distortion of resource allocation towards the power ruling elite is even more damaging at the macro level than the misappropriation of assets, because it makes corruption the norm, and often legalizes it.⁶⁵

However, the link between corruption and economic development is not universal; it is often not immediate but delayed over time. In many countries, particularly in Asia, high levels of corruption are persistently associated with impressive economic performance, with China being the most obvious example. But in other countries, even those with a Western economic culture, corruption can also have a temporary “greasing” effect, seemingly boosting economic performance.⁶⁶ For example, overpricing public procurement for corruption purposes can improve investment and growth statistics. It can also improve reported economic performance if abuses and rent-seeking reduce market transaction costs, i.e., political connections make it easier to raise funds, and those who benefit from this can develop and invest more easily.

Hungarian performance in the EU

⁶⁴See for example Organization for Economic Cooperation and Development (2012): Issues Paper on Corruption and Economic Growth. Working Paper, pages 1-43 (<http://tinyurl.com/2z5mctde>); and Acemoglu Daron – James A. Robinson: Why Nations Fail, HVG Press, 2013

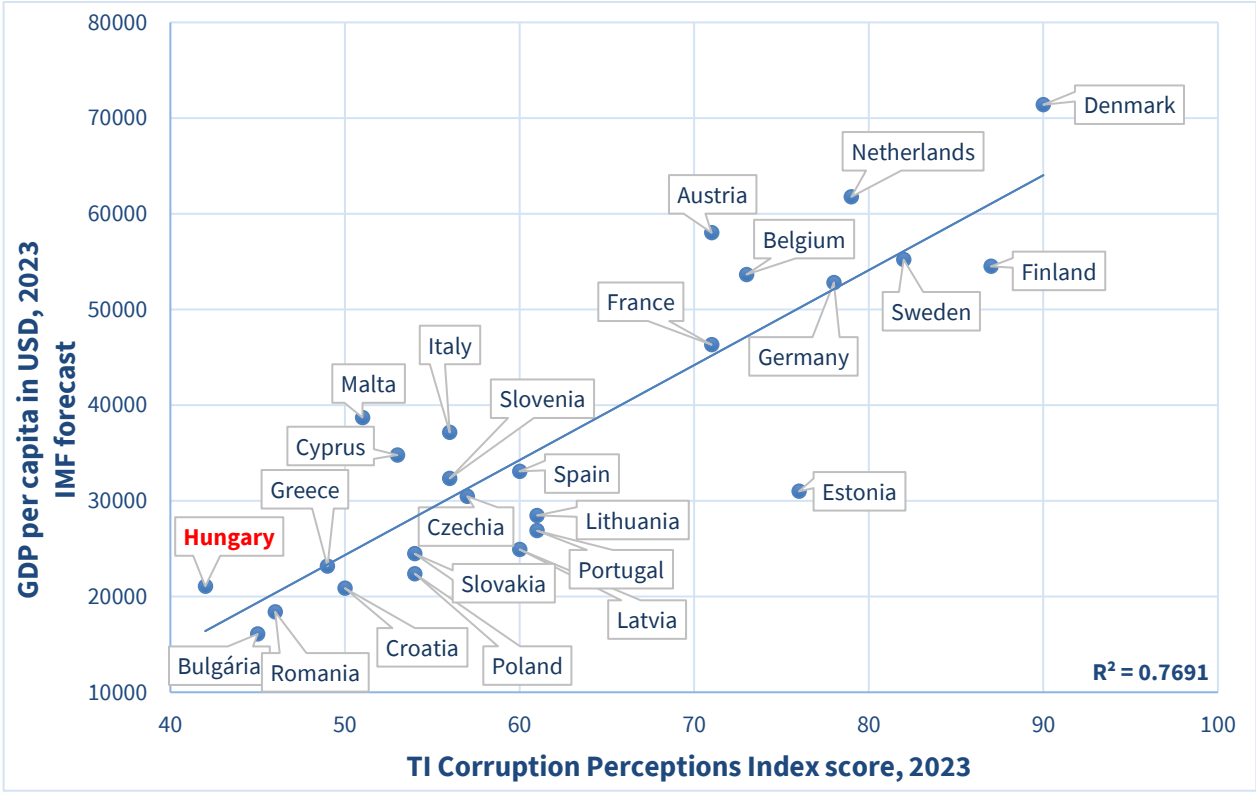
⁶⁵Bo Rothstein: The Quality of Government: Corruption, Social Trust and Inequality in International Perspective. Chicago: Chicago University Press, 2011

⁶⁶Yuna Heo – Fangfang Hou – Seongkyu Gilbert Park: Does corruption grease or sand the wheels of investment or innovation? Different effects in advanced and emerging economies. Applied Economics, Volume 53 No. 1, pages 35-60

The impact of corruption on economic performance, as well as corruption itself, is captured by indirect economic indicators—proxies. In this chapter, we operationalize economic performance in terms of GDP, consumption, productivity, and investment, examining the possible relationship between the level of domestic corruption and these indicators.

In the European Union in 2023, as in previous years, the correlation between economic performance measured by Gross Domestic Product (GDP) per capita and Transparency International Corruption Perceptions Index scores remains strong (see Figure 5). The correlation between corruption and the performance of the economy is therefore valid in the EU, although the regression coefficient of 0.77—indicating the strength of the relationship—has shown a slow but steadily decreasing trend in recent years (0.81 in 2022 and 0.83 in the two previous years).

Figure 5: Correlation between corruption and GDP per capita in EU countries, 2023



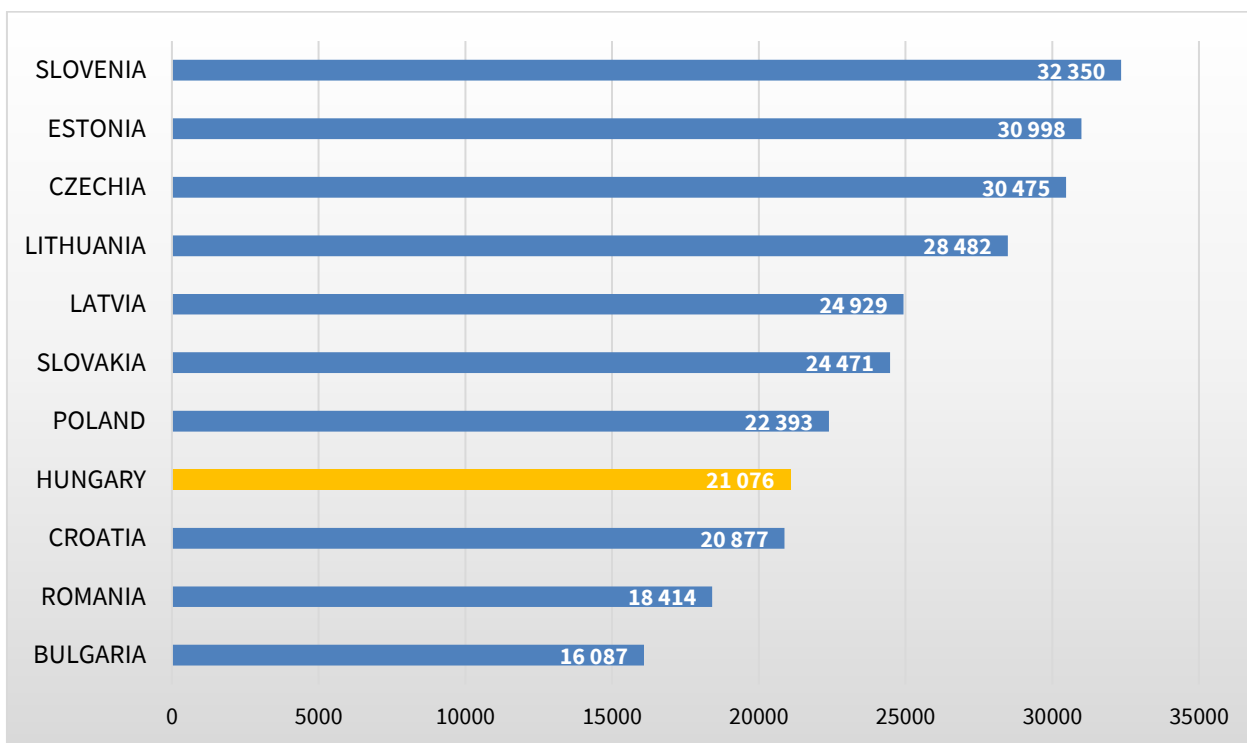
Source: TI Hungary calculations based on the Corruption Perceptions Index and IMF data.⁶⁷

The figure shows the regional position of EU countries along two dimensions: corruption and economic performance. Countries with low corruption and high economic performance are located around the upper right end of the regression line, while the more we move to the left and down, the

⁶⁷The higher the score on the Corruption Perceptions Index, the lower the exposure to corruption. Among the EU Member States, Luxembourg (GDP per capita USD 135 605) and Ireland (GDP per capita USD 112 248) have been excluded for technical reasons due to their specific situations and the different ways in which national accounts are calculated compared to other Member States. The R² value in the figure shows the strength of the correlation between GDP per capita and the Corruption Perceptions Index score, which is 0.7691, meaning that the correlation between the two variables is significant. See relevant International Monetary Fund (IMF) data. (<https://www.imf.org/en/Publications/WEO/weo-database/2023/October/select-country-group>)

more serious the corruption and the lower the GDP per capita. Hungary is the most corrupt Member State in the European Union, and at the same time, it has a modest economic performance. According to the data of the International Monetary Fund (IMF), in terms of GDP per capita, Hungary only performs better than Bulgaria, Romania, and—to a minimal extent—Croatia. Hungary's modest performance is reflected in the fact that all three other Visegrád countries are now outperforming it (see Figure 6).

Figure 6: GDP per capita in the EU Member States of Central and Eastern Europe, current prices, in US dollars, 2023



Source: TI Hungary calculations based on IMF data.⁶⁸

The situation is even worse in terms of actual individual consumption, where the latest data for 2022 show Hungary in 26th place in the EU, with 72 percent of the EU average, ahead of only Bulgaria (67 percent).⁶⁹

Looking at the periphery of the EU, it can be seen that the performance of Eastern and Southern European countries, both in terms of corruption and GDP per capita, has become "mixed", meaning that the claim that Southern Member States are performing better than Eastern Member States is no longer valid. In the light of current data, in terms of corruption and GDP per capita, the EU's eastern and southern peripheries form a block compared to Western Europe. The anti-corruption performance of Greece, Malta, and Cyprus is worse than that of the Visegrád countries and Slovenia, except for Hungary, not to mention the three Baltic countries. Italy, according to the CPI, has a higher exposure to corruption than the Baltic States and the Czech Republic. Furthermore, Greece is below the Czech Republic, Slovakia, and all three Baltic countries, as well as Slovenia, in terms of GDP per

⁶⁸See relevant International Monetary Fund (IMF) data. (<http://tinyurl.com/57h97mcy>)

⁶⁹Eurostat: Actual individual consumption per capita in 2022, 30 June 2023 (<http://tinyurl.com/4zuhdm8n>)

capita. It is also noteworthy that the economic performance of Slovenia, Estonia, the Czech Republic, and Lithuania has now overtaken that of Portugal.

Estonia, now playing in the Western “league”, is doing remarkably well. The Baltic state ranks second in our region in terms of GDP per capita, while fighting corruption more successfully than all the southern and eastern countries of the EU, as well as Austria, France, and Belgium.

Reasons for Hungary’s slide

Hungary has been stuck in the EU's lower house of corruption-ridden but low-income Member States, despite relatively strong economic growth in the seven years preceding the coronavirus pandemic, averaging more than 4 percent per year. According to the International Monetary Fund (IMF), per capita GDP grew by no less than 54 percent in a decade, from USD 13,666 in 2013 to USD 21,076 in 2023.⁷⁰

However, despite relatively high cumulative growth over the past decade, GDP per capita in 2023—as we have seen above—was only enough to rank fourth from the bottom in the EU-27. The majority of Member States performed better than Hungary after 2010. The reasons for this can be found in long-standing structural weaknesses in the economy, which have deepened in recent years, and in the corruption associated with the breakdown of the rule of law.

The Hungarian economy performed ambiguously from 2013 until the coronavirus crisis.⁷¹ Short-term macro indicators (growth, inflation, unemployment, financial balance) were favorable, while seven years of economic boom were not enough to address the economy's efficiency and structural problems. Growth since 2016 has been fueled by forced consumption and investment, rather than productivity improvements and exports.⁷²

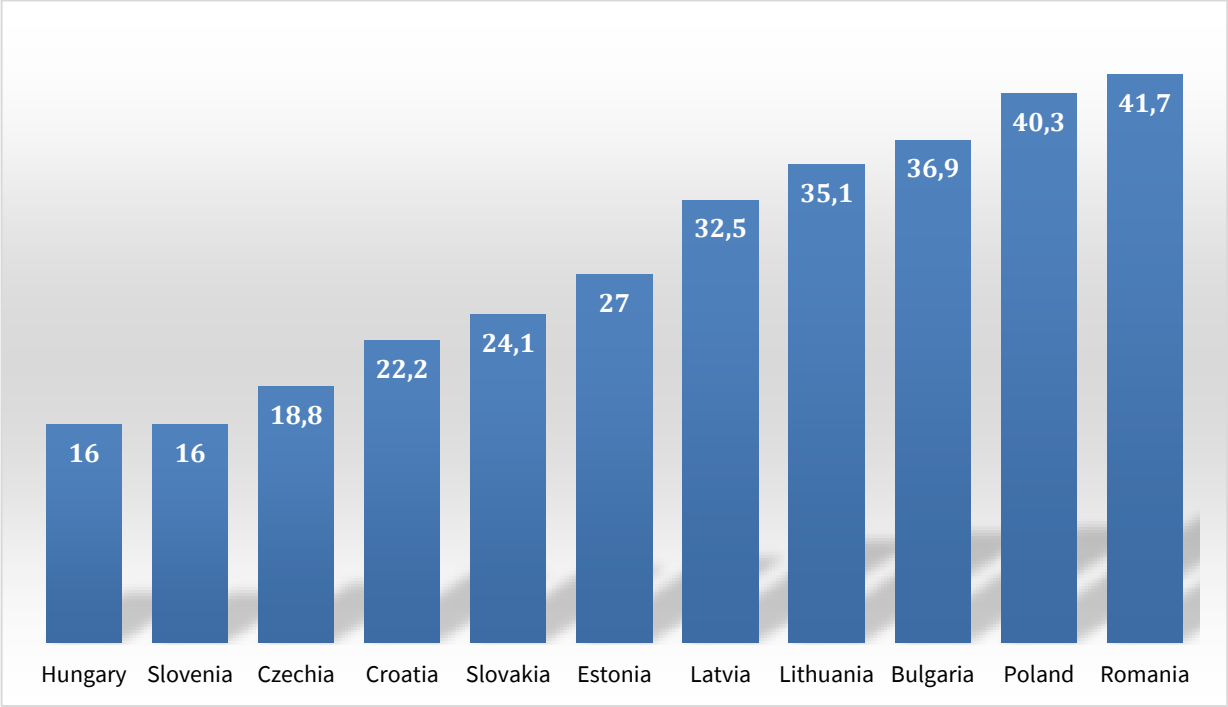
The rate of productivity growth during the thirteen years of the NER was only 16 percent, which was only enough for last place among the Central and Eastern European Member States, in a tie with Slovenia, which has a much stronger economy (see Figure 7). However, the productivity growth of the post-2010 Orbán governments was only half of the productivity change measured in Hungary between 2000 and 2010 (see Figure 8).

⁷⁰See footnote 68

⁷¹József Péter Martin: Resource Reallocation and Ambiguous Economic Performance in a Captured State—The Case of Hungary. In: Systems, Institutions, and Values in East and West: Engaging with János Kornai's Scholarship. CEU Press, 2020. (Szerk. Pirooska D. és M. Rosta) page 173–201

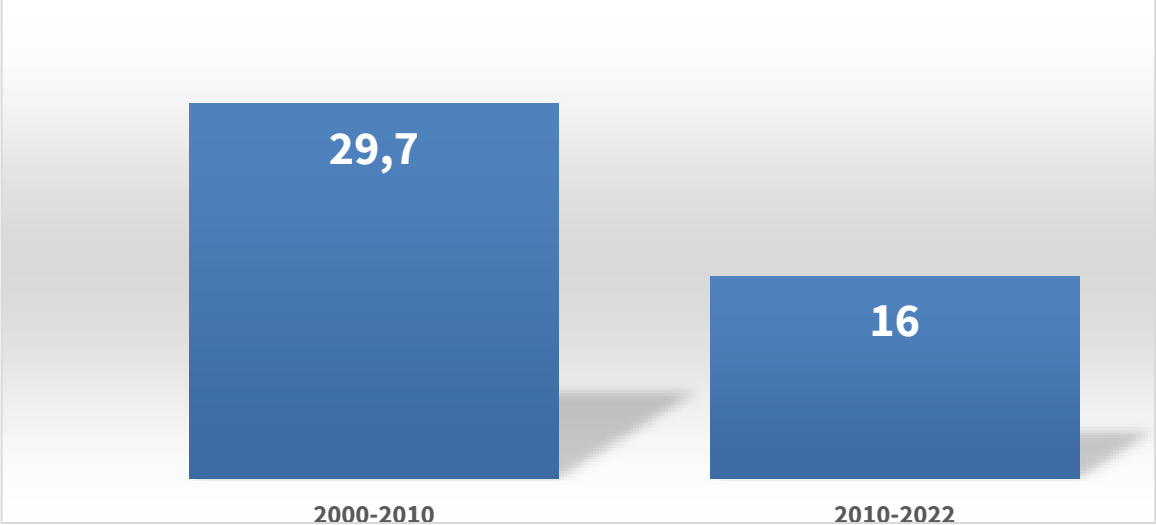
⁷²Véletlenül sem gurul pénz olyanokhoz, akik nem a kormány holdudvarához tartoznak. (Not a single cent goes to those who are not part of the government's clientele) (interview with György Surány), In: White Book. Is there a way out of systemic corruption? Transparency International Hungary, Budapest, pages 26-38 (<http://tinyurl.com/ypw2f83t>)

Figure 7: Productivity change in the EU countries of Central and Eastern Europe (2010-2022), in percentage



Source: TI Hungary calculations based on Eurostat data.⁷³

Figure 8: Productivity change in Hungary between 2000–2010 and 2010–2022.



Source: TI Hungary calculations based on Eurostat data.⁷⁴

⁷³Eurostat: Real labor productivity per person employed – annual data (<http://tinyurl.com/4s5bsrkt>)

⁷⁴See footnote 73

Previous analyses show that Hungary's competitiveness is well below the performance of the Visegrád countries and the regional average.⁷⁵ Human infrastructure is also continuously underperforming. The survey published in 2023 (2022 data) shows a significant deterioration compared to 2010 in all three dimensions (math, reading comprehension, and science), although the OECD average also shows a declining trend. In reading comprehension, Hungarian students' scores remained below the OECD average.⁷⁶ However, only Ireland and Bulgaria spend less on healthcare as a share of GDP than Hungary.⁷⁷

The consequence of all this is that, despite the unprecedented inflow of EU funding, averaging around 4 percent of GDP per year between 2010 and 2022, the Hungarian economy has failed to embark on an inclusive growth path over the past decade, i.e., one that reduces inequalities and uplifts broad layers of society. Although Hungary has been one of the biggest beneficiaries of the EU budget, the inflow of money has not contributed to increased efficiency or economic activity. Inequalities have not decreased either, but corruption has increased.⁷⁸

Failing to save money for difficult years in the “good times”, the deterioration of external conditions—first the coronavirus epidemic, then Russia's aggression against Ukraine—worsened the majority of the basic indicators of the Hungarian economy. Inflation hit an EU record at the end of 2022 and in the first half of 2023, and the budget faces severe structural and funding problems. Last year, the country experienced a mild recession. From the third quarter onwards, the economy started to grow again, albeit very slightly. On an annual basis, forecasts predict a minimal decline in 2023, with growth returning only in 2024.

The worsening trends are only partly due to external factors, with serious recent economic policy mistakes playing an important role. These include ignoring the requirements of equilibrium, and the imposition of the so-called “high-pressure economy”, i.e., overheating first on the monetary side and then on the fiscal side. Among the reasons for the money-squandering is the fact that the government often supports the cronies with economic policy instruments as well. These include the often classified ‘direct economic subsidies’, the ‘Funding Loans for Growth Scheme’, or the ‘Growth Bonds for Growth Scheme’ financed by the Central Bank. Hungary spends annually 9.5 percent of its GDP on direct economic development, twice the OECD average.⁷⁹

Despite this, the country's finances are secure, there is no financial crisis in sight, and the current account balance, which was tipped two years ago, stabilized last year. The stability of the real economy—albeit extremely skewed towards the cronies—is reflected in the fact that unemployment has not risen; in the third quarter of 2023, the rate was 4.3 percent.⁸⁰ However, the cost of this distorted economic policy, which has put the financing of crony companies ahead of financial balance, will undoubtedly have to be paid sooner or later.⁸¹ The European Union is likely to launch an excessive

⁷⁵Comprehensive competitiveness surveys—both the World Economic Forum’s (WEF) World Competitiveness Report and the World Bank’s Doing Business Report—have been on hiatus since the pandemic. Hungary ranked 47th (<http://tinyurl.com/2p98jdx7>) in the WEF's latest overall ranking and 52nd (<http://tinyurl.com/5n8x73zb>) in the Doing Business list, lagging behind its Central European competitors

⁷⁶Nikolett Halász (Telex.hu): Az eddigi legrosszabb eredményeket érték el a magyar diákok matematikából a PISA-felmérésen (Hungarian students achieve their worst results yet in mathematics in the PISA survey), 5 December 2023 (<http://tinyurl.com/ms5mkc94>)

⁷⁷Eurostat: Sickness and healthcare expenditure down in 2022, 27 November 2023 (<http://tinyurl.com/y8yp85z8>)

⁷⁸Gergő Medve-Bálint – József Péter Martin – Gabriella Nagy: Céllentétes következmények? (Unintended consequences?) How EU funds are used in Hungary, Social Report, 2022; (<http://tinyurl.com/2y8k6jyw>)

⁷⁹See footnote 72

⁸⁰See the Hungarian Central Statistical Office's October 2023 Flash Unemployment Statistics, 24 November 2023. (<http://tinyurl.com/uw3zhu68>)

⁸¹Viktor Zsiday: Vissza a múltba (Back to the past), 1 January 2024 (<http://www.zsiday.hu/blog/vissza-m%C3%BAltba>)

deficit procedure against Hungary in 2024, which could destabilize the economy and lead to a weakening of the forint exchange rate.

Janus-faced investments

Despite an extremely centralized pattern of corruption by EU standards, the destruction of the rule of law, and a poor institutional environment, we face a complex situation regarding investment in the NER years. The investment rate, i.e., the volume of investment as a share of GDP, had been falling almost hand in hand with the erosion of the rule of law before 2016. In other words, the thesis that the erosion of the rule of law worsens business environment and undermines investment activity has been confirmed.⁸²

Later, however, this correlation did not hold: the investment rate has been very high after 2016. In the last four years, this indicator has exceeded 27 percent in Hungary, and the most recent figures for 2022 show the highest value in the European Union (28.2 percent).⁸³ In a crony state capitalism such as the Orbán regime, this is due in large part to the boom in public investment.

However, the data show that the ratio of business investments to GDP is also relatively high in EU comparison. The rate of private investment was 16 percent in 2020 and 17 percent in 2021 and 2022, and with the latter, Hungary ranks third among EU countries, after Ireland and the Czech Republic.⁸⁴

This apparent paradox of intense investment activity in the face of the serious erosion of the rule of law is explained by many interrelated factors.⁸⁵ Firstly, the concentrated public procurement market,⁸⁶ as well as the generous state support for crony companies and oligarchs, trickled down later as private investments through the various reinvestments by these pro-government actors. Second, inflation has consistently exceeded the base rate of the central bank since 2016, and this “cheap(er) money” has helped investment. Third, the systemic overpricing of public procurement and EU resource allocation improves investment and growth statistics, thus “greasing” economic performance—at least in the short run. Fourth, since the second half of the last decade, a significant number of economic actors have “priced in” the disruption of the rule of law and systemic corruption, accepting it as a “new normal”.

For many years, the Hungarian economy has been characterized by a very high level of investment rate as a share of GDP. But this is only good news on the surface. Indeed, as shown above, high levels of investment have been coupled with modest economic performance (in terms of GDP per capita) and poor productivity compared with the countries of the region. This combination indicates that investments are extensive, inefficient, and not sufficiently supportive of economic growth.⁸⁷

In addition, in 2023, investment, including Foreign Direct Investment (FDI), fell sharply in the context of the recession and blocking of EU funds.⁸⁸ In 2020, annual net FDI inflows reached an all-time high of

⁸²József Péter Martin (2020): Greasing or sanding the gears? Corruption and economic performance of the NER in international comparison. Social Report. page 83 (https://www.tarki.hu/sites/default/files/2020-10/060_089_Martin_web.pdf)

⁸³See relevant Eurostat data on investment (<http://tinyurl.com/39f3umsv>)

⁸⁴See footnote 83

⁸⁵József Péter Martin: From Dual Economy to Parallel Universes: Attitudes and Coping Strategies of Hungarian Businesses vis-à-vis Crony State Capitalism—the Case of Hungary. Center for International Private Enterprise Research, Washington, DC, 6 May 2022. (<http://tinyurl.com/2cym57ux>)

⁸⁶See the chapter on public procurement in this report.

⁸⁷See Footnote 72

⁸⁸Annual data is not yet available. In the third quarter of 2023, the year-on-year decline was 12 percent. For more details, see Portfolio.hu: Tovább zuhantak a beruházások Magyarországon (Investments continued to fall in Hungary), 28 November 2023 (<http://tinyurl.com/2s49x7r5>)

USD 171 billion, in 2021, they were just USD 30 billion, and the latest figures for 2022 show a negative result of USD 14 billion.⁸⁹

Since 2020, Asian capital has been steadily gaining ground in the Hungarian economy. The share of Far Eastern capital investments (including Japanese, South Korean, and Chinese investments) was 19 percent in 2021 (of which 3.7 percent was Chinese capital).⁹⁰ This trend points out clearly upwards, with the EUR 7.6 billion battery factory by China's CATL, and the planned plant of BYD in Szeged, also from China, as well as investments by other Korean and Japanese companies, bringing the Asian share up to 30 percent in the medium term, according to some estimates. However, this does not call into question the fact that the Hungarian economy remains primarily dependent on Western companies. The combined share of China, South Korea, and emerging Asian countries in Hungarian exports did not even reach 5 percent in 2023, while in terms of FDI stock, according to the latest available data for 2021, European and North American capital held more than four times as much stock in Hungary as East Asian capital.

⁸⁹See World Bank data on FDI (<http://tinyurl.com/mr2av9sc>)

⁹⁰See Tamás R. Mészáros (G7.hu) on the rise of Asian capital and its relative position compared to Western capital: *Tíz év késéssel beindult a keleti nyitás, csak közben elvesztette értelmét* (Ten years after its launch, the opening to the East is finally underway, but meaningless), 8 December 2023 (<http://tinyurl.com/2fbssxbz>). This analysis is used as the data source for this paragraph

Hungary's access to EU funds

Blocking and partial unblocking of funds

The most important development last year was that in December 2023, the European Commission unblocked EUR 10.2 billion worth of EU funding for Hungary. This is almost half of the of the total funding the country is entitled to from the EU's cohesion policy budget between 2021 and 2027. Hungary's access to cohesion funding had long been blocked due to rule of law problems, including systemic corruption linked to EU funds. The Commission published its positive decision⁹¹ on 13 December 2023, while indicating at the same time that the measures taken so far by the Hungarian government to restore the rule of law in the country only address one of the four problematic areas: the restoration of the independence of the judicial system. Therefore, some EUR 11.7 billion worth of cohesion policy funding payable to Hungary remains blocked.

In total, around EUR 21 billion worth of EU funds are on hold for Hungary on at least three different grounds, including the rule of law conditionality (also known as EU budget protection) procedure, which the Council of the European Union launched against Hungary in December 2022, based on a proposal by the European Commission.⁹² This procedure makes the release of funds conditional on 17 anti-corruption measures, known as milestones. Until these are met, the EU will withhold EUR 6.3 billion, which accounts for 55 percent of the budget of three operational programs.

In December 2022, the European Commission found that Hungary was in breach of the EU Charter of Fundamental Rights in four areas, including the independence of the judicial system, asylum rights, the rights of sexual minorities, and academic freedom.⁹³ Since compliance with the Charter's provisions is one of the so-called horizontal requirements⁹⁴, which define the principles governing the use of the EU's cohesion policy budget, the Commission decided at the end of 2022 to block the country's access to the EU funds concerned until the problems were remedied. Since then, Hungary's judicial reform has been endorsed by the Commission, but no substantial progress has been noted in the other three areas. For example, public trust funds performing a public function have been found to infringe academic freedom.

The EU is also blocking EUR 10.4 billion from the EU Recovery and Resilience Facility (RRF), the bloc's recovery fund created after the COVID-19 outbreak, although it has agreed to make available EUR 920 million as advance payment.⁹⁵ Hungary' share of the RRF is made up EUR 6.5 billion in the form of direct grants, and EUR 3.9 billion is available as low-interest loans. The suspension is based on 27 conditions, also known as super-milestones, which are designed to protect the EU's financial interests. The Hungarian government agreed to fulfil these conditions in the national RRF plan. The super-milestones encompass the 17 corrective measures identified in the conditionality procedure (equivalent to 21 super-milestones under the RRF) and the four conditions relating to the restoration of judicial independence in the context of the Charter of Fundamental Rights (covered by four super-

⁹¹See the European Commission press release on this. 22 December 2022 (<http://tinyurl.com/cc4xf76p>)

⁹²See Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary, 15 December 2022 (<http://tinyurl.com/348by628>)

⁹³See footnote 91

⁹⁴ANNEX III on Horizontal enabling conditions of REGULATION (EU) 2021/1060 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, 24 June 2021. (<http://tinyurl.com/bdfc7m29>)

⁹⁵See more on this in the European Commission press releases: Commission disburses REPowerEU pre-financing payments to Hungary, Lithuania, and Poland under the Recovery and Resilience Facility, 4 January 2024 (<http://tinyurl.com/y3ce2znp>); Commission disburses final tranche of REPowerEU pre-financing payment to Hungary, 15 January 2024 (<http://tinyurl.com/2s3f9syv>)

milestones). The super-milestones are necessary because the RRF is not part of the regular EU budget; the establishment of the fund is provided for in a separate legal act.⁹⁶ The conditions protecting the EU budget therefore had to be laid down separately for the RRF.

In contrast to the RRF and the conditionality procedure, where all the conditions must be met by Hungary to receive a green light to draw down funds, the specificity of horizontal eligibility criteria is that prohibitions can be lifted in stages as the conditions are gradually met. This was the case in December 2023, when the Commission partially unblocked Hungary’s cohesion funding.

Table 2: Hungary's access to EU funds

Type of EU funding	EU funds due to Hungary between 2021 and 2027 (EUR)	Of which currently available (EUR)	Frozen funds (EUR)	Basis of blocking
Cohesion Fund	21.9 billion	10.2 billion	11.7 billion	Conditions relating to the implementation of the Charter of Fundamental Rights of the European Union ⁹⁷ + Rule of Law conditionality procedure (55 percent of 3 operational programs concerned) ⁹⁸
Recovery and Resilience Facility (RRF)	10.4 billion	920 million (advance)	9.5 billion	Meeting 27 conditions (super milestones) ⁹⁹
Agricultural and rural development support	12 billion	12 billion	—	Agricultural and rural development subsidies are not subject to the conditions affecting the Cohesion Fund and the RRF fund

Source: European Commission Communications¹⁰⁰ and the European Commission database on the RRF Fund¹⁰¹. The amounts in the table show how much EU funding Hungary can expect to receive from the different EU funds between 2021 and 2027, how much is currently available to the Hungarian government, and how much is frozen under various legal bases.

⁹⁶REGULATION (EU) 2021/241 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Recovery and Resilience Facility, 12 February 2021 (<http://tinyurl.com/5cnvycks>)

⁹⁷Following the European Commission's decision in December 2022, Hungary must take further measures to comply with the Charter of Fundamental Rights of the European Union. Four areas of concern have been identified: guaranteeing the independence of the judiciary (the Hungarian judicial reforms have now met the conditions for this); ensuring academic freedom; amending a law that violates the rights of the LGBT+ community; and reforming elements of the asylum system. Implementation of the Charter is a precondition for Hungary's access to the currently frozen part of EU cohesion funding.

⁹⁸The Council of the European Union, in its rule of law conditionality decision adopted in December 2022, attached 17 conditions (milestones) to the disbursement of part of the EU cohesion funding Hungary is due to receive between 2021 and 2027. The conditions are designed to reduce corruption related to EU funding.

⁹⁹The super-milestones are included in Hungary's Recovery and Resilience Plan. The super-milestones cover the 17 conditions (milestones) set out in the Council's conditionality decision on the rule of law and the Commission's conditions for the full implementation of the Charter of Fundamental Rights of the European Union.

¹⁰⁰European Commission: Questions and Answers on Hungary: Rule of Law and EU Funding, 13 December 2023 (<http://tinyurl.com/5u57e6h8>)

¹⁰¹European Commission: Recovery and Resilience Scoreboard (<http://tinyurl.com/yc7u9har>)

Although the partial unblocking of cohesion funds in December is certainly good news for the Hungarian government, the EUR 10.2 billion will not be paid to the Hungarian budget all at once, but in several installments, against invoices, as post-financing. In its December communication, the Commission stated that the legitimacy of all payment claims will be checked, and if they see a setback in the area of the judicial reforms, they can block the funds again. The Commission decides on the fulfillment of the horizontal conditions alone; it does not need the Council's approval.

Therefore, there remains some absorption risk even regarding that part of the cohesion policy funds that have already been unblocked for Hungary. However, for the remaining part of the country's cohesion envelope still blocked under the conditionality procedure and for the RRF fund, this risk is considerably higher. For example, if the country fails to meet all 27 conditions (super-milestones) for accessing the RRF funds, or if the planned RRF projects are not completed by the end of 2026, the government will not only fail to get the money from this fund, but it will also have to pay back the nearly EUR 1 billion RRF advance payment from Hungarian taxpayers' money. And, as the Commission points out in its December 2023 communication, the (super)milestones, with the exception of the four conditions already fulfilled via the judicial reform, are yet to be fully met.¹⁰²

Recovery Fund: where do Member States stand now?

The conditions for accessing the RRF fund – which is financed by a loan taken out by the European Commission and is intended to speed up the EU's post-COVID economic recovery – are novel and differ substantially from those established for cohesion funds. For example, the deadline for completing RRF-funded projects is much shorter: the end of 2026. Also, for phased payments, the Commission checks whether the specific commitments outlined in the national RRF plans – such as reducing energy dependency and social inequalities, making the economy more sustainable, promoting digitalization, and working towards strategic independence in sourcing industrial raw materials – have been met.

This can pose a challenge even for larger EU countries: the first RRF disbursement of EUR 4 billion to Germany was made only at the end of December 2023, while the country's total RRF envelope is EUR 28 billion (Germany does not intend to use RRF loans).¹⁰³

Among the big member states, Italy is in a better position, with its fourth payment request of EUR 16.5 billion approved by the Commission on 28 December 2023. Timing is important for Italy, as it has one of the largest RRF envelopes of EUR 194.4 billion (of which direct grants amount to EUR 71.8 billion and loans to EUR 122.6 billion).¹⁰⁴

In the Central and Eastern European region, three countries, Croatia, Romania, and Slovakia, have been the most successful in utilizing their RRF budgets.¹⁰⁵ Croatia received its first disbursement of EUR 700 million in June 2022, followed by a second payment of EUR 700 million in December 2022 and a third disbursement of the same amount at the end of November 2023.¹⁰⁶ At the end of last year, Croatia submitted its fourth payment request, this time for a more modest amount of EUR 162.5

¹⁰²See footnote 91

¹⁰³European Commission: the Commission disburses payments to Germany, Greece, Italy, Portugal, Slovakia, and Slovenia under the Recovery and Resilience Facility, 28 December 2023 (<http://tinyurl.com/3x3d2735>)

¹⁰⁴See the European Commission's Recovery and Resilience Scoreboard for Italy (<http://tinyurl.com/2zk4rk62>)

¹⁰⁵On changes in the use of RRF funds in Central and Eastern Europe, see Erste Group Research: CEE Macro and FI Daily, Absorption of RRF funds varies across the CEE, 1 March 2023. (<https://www.erstegroup.com/en/research/report/en/SR317845>)

¹⁰⁶See the European Commission Recovery and Resilience Scoreboard for Croatia (<http://tinyurl.com/yc3e7dnk>)

million. The country's total RRF envelope is EUR 10 billion (of which direct grants account for EUR 5.8 billion and loans for EUR 4.2 billion).

Two payments have so far been approved by the Commission for Romania: EUR 2.6 billion in October 2022 and EUR 2.76 billion in September 2023. At the end of last year, Romania submitted its third payment request, this time for EUR 2 billion.¹⁰⁷ The country's total RRF envelope is EUR 28.5 billion (of which direct grants amount to EUR 13.6 billion and loans to EUR 14.9 billion).

Slovakia received its third RRF disbursement of EUR 662 million at the end of 2023.¹⁰⁸ Before that, the Commission approved the payment of EUR 398.7 million in July 2022 and the disbursement of EUR 709 million in March 2023. At the end of last year, Slovakia submitted its fourth payment request for EUR 799 million. The country's total RRF envelope is EUR 6.4 billion (Slovakia does not intend to use RRF loans).

Overall, the three countries have the green light to spend around a third of their total RRF budgets, and they are submitting new payment requests to the Commission at increasingly shorter intervals. For these countries, this suggests a low absorption risk.

The situation is far from rosy in Hungary: so far, the government has not submitted a single payment request for the country's EUR 10.4 billion RRF envelope, as it is not entitled to do so until the 27 super-milestones are fully implemented. The only exception to this rule is the possibility to request advance payments from EU funds, which Hungary has taken advantage of both in the case of cohesion funds and that of the RRF. This is why the Commission was able to approve at the end of last year the payment of EUR 780 million from the RRF¹⁰⁹, which was followed by the approval of a second RRF advance payment of EUR 140.1 million on 15 January 2024.¹¹⁰

Provided that Hungary gains full access to its RRF envelope, the time limit built into this fund would reinforce a long-standing trend in the use of EU funds in Hungary: the need for fast spending puts public administration under absorption pressure, which leads to overriding most other spending criteria, including the need for fostering geographical balance and social cohesion.¹¹¹

To prevent the loss of resources, the Hungarian government, at the expense of the national budget and thus risking the money of Hungarian taxpayers, has launched several calls for proposals in recent years, the content of which matches the country's RRF plan as approved by the European Commission and the Council. According to official tender statistics, the total value of contracts signed under the RRF until mid-January 2024 reached HUF 1,060 billion, while the total amount paid out to tender winners amounted to HUF 960 billion.¹¹² The tender winners are mostly municipal, church- and state-owned organizations, such as the Digital Government Development and Project Management Ltd (DKF), the National Data Asset Management Agency, the Slachta Margit National Institute for Social Policy, the Ministry of Construction and Transport, and the Ministry of National Economy. Among the corporate winners is MVM Démász Áramhálózati Kft., a subsidiary of MVM, a large state-owned energy

¹⁰⁷See the European Commission Recovery and Resilience Scoreboard for Romania (<http://tinyurl.com/2p85m6ar>)

¹⁰⁸See the European Commission Recovery and Resilience Scoreboard for Slovakia (<http://tinyurl.com/3965kruc>)

¹⁰⁹See footnote 95

¹¹⁰See footnote 95

¹¹¹See footnote 78

¹¹²See relevant government RRF statistics; date of query: 17 January 2024 (<https://www.palyzat.gov.hu/eredmenyek/aktualis-statisztikak/rrf>)

company often used by the government for politically-motivated money transfers¹¹³. In 2022, MVM Démász received HUF 43 billion in funding for network development.¹¹⁴

Additional restrictions on thematic funds

Not only does the EU conditionality procedure against Hungary block a significant part of the EU cohesion funds for Hungarian applicants, restrictions have also been put in place for thematic funds under the direct management of EU institutions. One example is the Horizon Europe research and innovation fund, which has a total budget of nearly EUR 100 billion between 2021 and 2027. Under the conditionality procedure, payments from these funds have been suspended for some Hungarian entities since the end of 2022, including, among others, the formerly state-owned universities that the government has transferred into the ownership of public trust funds performing a public function. The ban also applies to the companies and research institutes linked to them. The reasoning is that the funding of these institutions and the selection of their governing trustees are not transparent, therefore the transparent use of EU funds is not guaranteed.

The EU's conditionality procedure undermines the Hungarian government's ambitious plan that domestic applicants, mainly in higher education, should get 2.2 percent of all directly managed funds, or EUR 7 billion¹¹⁵, by the end of 2027.¹¹⁶ Apart from Horizon Europe, other examples of directly managed thematic EU funds include the LIFE fund for environmental protection and sustainable development, and the Creative Europe program. The restriction also applies to Erasmus+, which supports university exchange programs for students and professors.

¹¹³Péter Tarr (Media1.hu): Kormánypárti médiumoknál költötte el az állami MVM a hirdetési pénzeinek háromnegyedét (State-owned MVM spent three quarters of its advertising money on pro-government media), 9 October 2023 (<http://tinyurl.com/y47tw3uj>)

¹¹⁴See footnote 112

¹¹⁵Márton Orosz (Portfolio.hu): *Érkezzenek a közvetlen EU-s források! 7 milliárd eurót is elhozhatnak a magyar cégek* (Direct EU funding is on the way! Hungarian companies can bring in up to EUR 7 billion), 10 January 2023 (<http://tinyurl.com/4ahbkwmv>)

¹¹⁶See the relevant EU programs (<https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home>)