

WHITE BOOK



Is there a way out
from systemic
corruption?



TRANSPARENCY
INTERNATIONAL
Hungary

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Traps and escape routes

József Péter Martin

Executive Director of Transparency International Hungary,
Editor of the White Book

I don't care about the fairness of the competition, what matters to me is whether I win the public procurement or not - a phrase that often rings in my ears, uttered a few years ago at a panel discussion. An entrepreneur from the audience spoke up, trying to curry favor with my debate partner, who was a well-known government politician. There were such debates then, but fewer and fewer nowadays, if any. The audience was mostly made up of entrepreneurs, and it was clear that they didn't really know what to make of what I was talking about. Namely, that fair, free competition creates predictable conditions, leads to an optimal allocation of resources and promotes the public good in the longer term. I also said that in the long run it is better to have a low proportion of single-bid procurement in the public procurement market where the concentration is low, and transparency conquers. For the ordinary Hungarian entrepreneur - and, of course, with due respect to the exceptions that are also hidden in this volume - these are 'esoteric' ideas, they want to see revenue and profit today, or tomorrow at the latest. For them, everything else is a substitute for action, naivety, and window dressing. A denial of raw reality.

In the White Book, besides setting up the diagnosis, we look for the solutions as well.

And the raw reality is that domestic crony state capitalism is designed to tilt the business conditions in favor of the cronies, to make loyalty pay better than talent or diligence. This is what millions of citizens and a large part of the economic actors have adapted to. That's the way how it works, they say resignedly.

And really, it is. In keywords: a captured state, biased institutions, opaque and inefficient public policy, a captured media, a robust crony economy (NER-economy, NER is the Hungarian acronym for the National Cooperation System, a regime which was designed and named by Viktor Orbán) that denies the market and the performance principle, and an apathetic society. Corruption permeates the state, the economy and our daily lives. Petty abuses by citizens and white-collar, systemic abuses legitimize each other

After two Black Books, Transparency International (TI) Hungary has now produced a White Book. The second Black Book, published in early 2022, provided a comprehensive view of the

captured state and the corruption situation, and presented 50 specific cases¹. In the current White Book, taking the example of the whitepapers, besides setting up the diagnosis, we look for the remedies as well.

In this volume, we have invited renowned experts (many of whom have previously held positions of public power) to join us in our search for a way out of systemic corruption. In the first part of the volume, you will read four comprehensive studies and interviews that not only provide a diagnosis, but also offer solutions. András Baka, former President of the Supreme Court, writes on how to restore independence to the justice system. In an interview with György Surányi, former president of the Hungarian National Bank, we look at what is needed to restore the market economy. Miklós Ligeti, TI Hungary's Legal Director, makes very concrete policy proposals in five areas (freedom of information, asset disclosure, protection of public data, lobbying, campaign financing) to ensure that public policy serves all citizens and not just offer privileges for those with power and/or wealth. Gábor Polyák and Ágnes Urbán, leaders of the Mérték Media Monitor, lay down the principles and regulations of a future democratic, pluralistic and market-based media system. Judit Zeisler, TI Hungary's Senior Project Manager outlines the contours of a new public financing system. And last but not least, with historian Stefano Bottoni, author of the recently published bestseller, *The Obsession with Power*, we explored the historical causes of corruption and the chances of Hungarian society waking up from its apathy towards public life and getting a taste for democratic participation, or at least showing some kind of civic courage.

It is important to raise awareness in the Hungarian society: it could happen differently.

We think that, in addition to pointing out the wrongdoings on a daily basis, it is important to raise awareness in the Hungarian society: it could be, it could happen differently. The basic idea for the book stem from Gergely Litkai, and we later developed the concept together. Gergely and I believe that we are all responsible for the future of this country. Recent sociological studies show that, unfortunately, the corruption in itself leaves most of Hungarian citizens untouched and does not mobilize society. The majority of Hungarians consider corruption to be an excusable sin; according to a Eurobarometer survey conducted earlier this year, 57% of Hungarians believe that corruption is tolerable, while among EU citizens only one in third think in the same way.

Because of these depressing social attitudes, we have also made some changes to our own approach in the White Book. What is unprecedented in the history of TI Hungary: in this volume we also publish success stories. We had to search for them very thoroughly, and at the end of the day, we could hardly find 10 beneficiaries (companies, foundations, institutions)

¹ *Black Book II. – Corruption and state capture in Hungary.* [Fekete Könyv II. – Korrupció és az állam foglyul ejtése Magyarországon] Transparency International Hungary Foundation – Civitas Institution, Budapest, 2022. (https://transparency.hu/wp-content/uploads/2022/01/Fekete_Konyv_II_2022.pdf).

that spent EU funds prudently for the common good. DG REGIO, one of the European Commission's DGs, provided us with the cases and validated the success stories from other sources. These good practices have been selected according to five criteria: need/justification for development; transparency of spending; effective project management; state-of-the-art product or service; and community-building. All ten cases met at least the first four criteria, and a good number met the fifth one as well.

Just as corruption can be described as a collective phenomenon - a social trap - we must find a way out together. More than a decade ago, Hankiss Elemér wrote in his book *Traps and Mice: "Today Hungary flounders in a dangerous trap. And the mice are unfortunately us, who live in this country."* Since then, the traps have become deeper and more insidious. The White Book aims to provide a guide to the search for escape routes by providing a diagnosis, outlining suggestions for solutions and some good practices.

St. Musk of Felcsút and the signs of life within us

Gergely Litkai

Stand-up comedian,
founder and managing director of Dumaszínház

Why are we corrupt? And why do we have such a strong perception of corruption? Is there a link between the two? Are we corrupt because we see this pattern, or do we see this pattern because there is simply no other pattern?

Transparency International's Corruption Perceptions Index ranks us last in the European Union. It could also be that we are so honest as citizens that even Denmark is the porch of hell for us, that when we see an envelope we think of the worst, or that many people in the vaccination program have received a Chinese vaccine that also protects against corruption, and that we perceive the reverberation sound of corruption like a bat. But I suspect that is not the case.

This book is a chance to heal. As a citizen, I am also outraged by the state of my country, but as a citizen I also long to stumble upon a good part of the reality when I read the news, which is the REALITY. All I see are black books, blacklists, black cities, black businesses where the corruption is so systemic that without it the whole running environment would freeze. But in the other reality I see non-existent successes, economic miracles, where the domestic Miracle Man appears almost daily, successful because he is so capable - no one else can win a public procurement against him. A St. Musk from Felcsút. The appearance of competition is further reinforced by independent, dividend-priority companies competing, bidding and paying back in the Market.

But this whole situation leads to a kind of corporate racism, where companies that really fight, apply, qualify, win, use the grant money well and effectively, are put on the same shelf as the aforementioned rent-seekers. And it's bad for them, and it's bad for anyone who wants to believe that it could be done differently. Not to mention that many people do not apply at all.

When I came up with the idea for the book, I was driven by the desire to show our citizens that it is possible to do this in a decent way. It may be more difficult, or it may not be the most practicable way, but it is certainly much more common than we might assume. There are a lot of decent people in Hungary who are talented and not corrupt but not because they are too naive or too stupid. It is because they are honest. If we believe that this is the pattern that makes a society work well, we have already done much more to fight corruption than any authority or government has done so far. They scourge, condemn, deny or bogus but they rarely present us with a good example.

That is why I am very grateful to Transparency International Hungary for accepting, supporting and developing this idea. And it was a great weight off my heart when I found out that there are companies where this really works. It would have been too much, even for me, if it had turned out that I was wrong.

These good examples are also needed because, when faced with so many challenges, it is crucial that a country's immune system is strong. However, at the moment we are more like a patient with several acute infections going on at the same time, but the good news is that we are still alive, and the patient is not completely taken over by micro-organisms. We're somewhere between a man flu and decomposition. But this book will hopefully show us the signs of life within us, the chance to heal.

I.
Studies, interviews

From targeted restrictions to the future restoration of an independent justice system

Conclusions from recent regulation

It is not possible to determine in advance, in an abstract way, the most effective way to restore the independence of courts and judges in Hungary. In this regard, we need to define principles and cornerstones that will eventually serve as guidelines for the restoration of the rule of law, writes in his essay Dr. András Baka, former President of the Supreme Court and member of the European Court of Human Rights between 1991 and 2008.

Before we talk about the Hungarian court system and its independence, we need to look at the role of the courts in the functioning of the rule of law. The existence of independent, impartial courts and judges and effective legal protection are an important part of the rule of law, but it is fundamentally wrong to assume that restoring the organizational independence of the courts will also restore the rule of law. Other conditions must also be met.

The rule of law is not a vague concept

The accepted concept of the rule of law goes beyond the mere regulation of the functioning of the state, the legislative order and the system of public offices, and the orderly administration of justice as manifested in the implementation of laws on the court system. These formal requirements were met by the law of Nazi Germany and the communist regimes, but they are not considered to be states governed by the rule of law.

The modern concept of the rule of law, as it emerged after the Second World War, also includes elements of content. Anyone who believes that “the rule of law is not a clear, tangible norm that can be applied in everyday life...it is a vague concept”, that “lacks a definition” could not be more wrong.¹ On the contrary, the criteria for the rule of law are clearly set out in the documents of the European Union and the Council of Europe. The norms of the rule of law are consistently applied in the case law of the Court of Justice of the European Union and the European Court of Human Rights (ECtHR). The Venice Commission of the Council of Europe does the same

1 Boris Kálnoky (Die Welt): “*Da verlassen wir uns auf das Wort Der Kanzlerin*” [„We take the Chancellor’s word for it”] 14th of August 2020. (<https://www.welt.de/politik/ausland/plus213476322/Ungarns-Justizministerin-Da-verlassen-wir-uns-auf-das-Wort-der-Kanzlerin.html>).

when it examines Member States' legislation in the light of the rule of law criteria and delivers reports which are often unfavorable to Hungary and Poland.

The rule of law is therefore not a vague concept that cannot be defined. In fact, the rule of law in the European Union is a set of criteria that are common to all the above-mentioned bodies, as underlined in their governing documents and applied in the daily practice of international organizations and courts. These are: separation of powers; the principle of legality in a transparent, pluralist legislature; the requirement of legal certainty; the prohibition of arbitrary action by the executive; the effective judicial protection by independent, impartial courts; equality before the law and the guarantee of fundamental rights.

There are, of course, many different ways of creating bodies and structures that meet the requirements of the rule of law. Parliamentary life, the functioning of the legislature, the structure of government, the activities and jurisdictions of public bodies and even the organization of the judiciary vary enormously, not only in countries around the world but also in Europe more generally. To stay on our subject, there are many legal solutions to guarantee an independent justice system and to ensure that courts and judges operate under the rule of law.

There was once an independent institutional system

The establishment of the democratic rule of law in our country started during the political transition. New institutions were established, and gradually the Parliament was built up as an institution of modern parliamentarianism, now continuously in session - with the new rules of the House, the stumbling parliamentary committees, and the gradually full-time representatives. Among other things, the ombudsman system, which had no tradition in our country before, was established. Hungary was admitted to the Council of Europe in November 1990, and after nearly two years of considerable legal harmonization work, became a party to the European Convention on Human Rights on 5th of November 1992, accepting the binding jurisdiction of the European Court of Human Rights, thus providing an international guarantee for the protection of human rights in Hungary.

On 1st of January 1990, the Constitutional Court (CC) was established as a major institution of the rule of law, with full constitutional jurisdiction in line with the European mainstream, and with judges of exceptional knowledge, far away from party politics at that time - the institution that "communicates with the government through the Official Journal". The public body whose existence was not demanded by European institutions or the Council of Europe, but which nevertheless played a decisive role in the effective maintenance of the system of checks and balances in Hungary. It has effectively used the instruments of ex ante and ex post control of norms and of establishing constitutional violations by omission, with the widest possible access to the Constitutional Court. It has confronted left and right governments, forced compromises between opposing interests, and its decisions have required alternative solutions to be found

in certain objectionable government actions. Its role was decisive in shaping and defending the system of constitutional rights even before the European Convention on Human Rights was ratified.

There are many ways to create a justice system that meets the requirements of the rule of law.

As we have written, the system of courts and the guarantee of the independence of the judiciary are defining components of the rule of law, but the existence of an independent justice system does not in itself mean the rule of law. During the decades of the Kádár regime, the Soviet-style courts themselves underwent significant changes. The people's courts, which had been subordinate to the party and the government as an instrument of the political regime that had repressed the '56 revolution, were gradually transformed, and the "blood judges" who had ruled in the 1950s and 1960s had disappeared from the system by the 1970s. In the 1980s, before the regime change, judges were largely allowed to judge independently, although the centralized system of court administration and judicial appointments under the Minister of Justice remained in place. The essence of the change that ended this period is perhaps best captured by the words of Kálmán Kulcsár, legal scholar and Minister of Justice, in 1989: *"I will not appoint a judge who does not have the support of the judiciary."*

The change of regime did not bring immediate changes in the administration of the courts, but there was a significant turnover of judges. New state institutions were created, previously closed legal professions opened up, companies in large numbers sought experienced lawyers to meet the needs of the economy, and many judges left their previous profession to work outside the justice system. Judicial positions have opened up and a significant number of new judges have been appointed. The change was so great that 74 percent of judges in office in 2011 took their positions after the change of regime.

A radical overhaul of the judicial administration took place in 1997. This reform transformed the former centralized system, under the supervision of the Minister of Justice, into a fully self-administered court system. The 15-member National Council of the Judiciary (NCJ), chaired by the President of the Supreme Court, had a quorum of judges, with 9 members elected by the delegates of the courts. Other members included the Minister of Justice, the Attorney General, the President of the Hungarian Bar Association and two members of Parliament. This body dealt with all administrative matters of the courts, decided on personnel and budgetary matters. It managed court property, set up and operated the courts' administrative and IT systems and provided training for judges.

We do not have the space to assess the NCJ's operations in detail, others have done that before. A serious problem has been that the judges with an NCJ membership have been selected from among the presidents of the courts, who have served for a long time and have had a great deal of influence, which has made the work of the NCJ seriously inward-looking, often self-serving. This was compounded by the fact that the establishment of judicial self-administration was not accompanied by the development of mechanisms to control the work of the NCJ. It can also be

argued that the existence of full judicial self-administration has relieved the executive of any political responsibility for the functioning and efficiency of the justice system.

However, let's not forget about two things. First, that the serious criticisms of the NCJ at the time were formulated in the context of the rule of law. Its distortions, shortcomings, inefficiencies, flawed decisions and entanglements of its members were pointed out with the intention of correcting them, but without questioning the political neutrality of the whole judicial self-administration.

Second, the Hungarian system of independent judicial self-administration was in line with the trends in the European Union, which show a strengthening of various forms of judicial self-administration. Make no mistake, in a country with a rule of law and a democratic tradition, the separation of powers and the independence of the judiciary can be ensured even with relatively weak judicial self-administration. However, in a country without a democratic tradition, without the rule of law, where authoritarian heritage, only judicial self-administration and public control of the judiciary can provide some protection against political influence to ensure the independence of judgments.

Targeted legal restriction imposed during the Orban-regime / during Viktor Orban's "Regime of National Cooperation"

After the 2010 elections, the system, which had been in place until then, has changed radically. A new constitutional understanding with a high level of centralisation has emerged that denies the separation of powers and the need for checks and balances that are the fundamentals of the rule of law. The Constitutional Court has gradually lost its role in the system of checks and balances, which the Venice Commission had previously considered to be crucial. The jurisdictions of the Constitutional Court, which had hitherto been considered complete, have been substantially reduced and the control of economic and financial legislation has been essentially abolished. Furthermore, the narrowing of constitutional review of laws has become a practice and substantive constitutional control over Parliament and the executive has become illusory. We can say that the Constitutional Court is not functioning precisely in the traditional areas of constitutional review.

This is not an accident, but the result of a targeted restriction of rights. This is also evident from the fact that, whereas previously anyone could make a petition to the Constitutional Court under the public petitioning (*actio popularis*) scheme, this is now only possible for so-called genuine constitutional complaints, subject to strict conditions.

While a certain degree of narrowing of the possibility to appeal to the Constitutional Court can be justified, closing the “door of the Constitutional Court” to this extent was in the government’s interest, as well as the narrowing of the scope of the still permissible petitions for review of legal norms. However, this was not enough: in order to ensure loyalty to the ruling power, it was also necessary to change the rules regarding the members of the CC.

The existence of an independent justice system does not in itself mean that the rule of law prevails.

First, the number of constitutional court judges was increased from 9 to 15, to reduce the influence of judges elected before 2010. At the same time, the system for nominating constitutional court judges, which had previously required consultation and compromise, was changed. Under the new system, in place since 2010, only candidates from the governing party have been elected by the government’s supermajority in Parliament, and with longer terms of office. And not on the basis of principle or professional criteria, but on the basis of loyalty to the government. Over the years, the body has been transformed from a law-centered and independent Constitutional Court established after the regime change to an entity that is dominated by government interests in politically driven cases. It is not that the members of the Constitutional Court decide all cases in the same way and that professional arguments are not confronted, or that there are no dissenting opinions. Rather, the problem is that the Constitutional Court’s role is now to ensure that the final decision of the majority of the Court in sensitive cases is predictably favorable to the government.

The restructuring of the Constitutional Court has had a significant impact on the administration of the justice system. While the jurisdiction of the Constitutional Court, which was a limit on the power of the government, was greatly reduced, it was extended in relation to the courts, in terms of the provisions of the Constitution, in respect of genuine constitutional complaints. Hence the Constitutional Court gained considerable influence over the substantive functioning of the justice system.

The institution of a genuine constitutional complaint is known in many countries and in some form in around a third of EU Member States.² However, in the majority of countries, the subject matter of the legal instrument can only be an administrative act. Constitutional complaints against court judgments previously existed only in a few democracies such as Germany, Spain, Portugal and Malta; the accession of the Czech Republic, Slovakia, Slovenia and Hungary to this circle after the change of regime was a new development. A genuine constitutional complaint is a very powerful instrument, giving the Constitutional Court the power to annul final court judgments. This instrument has traditionally worked well in democratic countries (in particular Germany, which was the model for the Hungarian legislation, but also in case of Spain and Portugal), but elsewhere it is fraught with tensions between the Constitutional Court and ordinary courts.

2 See for more on this the Venice Commission Study on Individual Access to Constitutional Justice, 27th of January 2011 (<https://tinyurl.com/yb66y8ux>)

In Hungary, a genuine constitutional complaint may be submitted – to the Constitutional Court as a motion challenging the conformity of a legal provision or a judicial decision with the Fundamental Law, – following the conclusion of an individual court case, on the grounds of a fundamental rights violation. As the formerly dominant review of norms has become almost insignificant in the operations of the Constitutional Court for the reasons described above, the vast majority of the decisions of the Constitutional Court are nowadays constitutional reviews of court judgments. It is legitimate to ask whether the institution of a genuine constitutional complaint, celebrated at the time of its introduction as an extension of constitutional protection, isn't it, following the dismantling of the rule of law, an instrument of political control over the justice system. If the Constitutional Court is politically biased, it is reasonable to assume that this political motivation is at least reflected in the constitutionality of judicial cases of importance to the government. While the loyalty of the Constitutional Court to the government can be ensured by the simple selection of constitutional judges, this cannot be achieved in the case of the nearly 3,000 judges of ordinary courts. It is for this reason that concerns have been raised about the legal solution that has since been withdrawn, allowing government agencies to submit constitutional complaints.

The principle of separation of powers is seriously undermined

Our assumption is supported not only by the practical experience of the judiciary, but also by the fact that the government itself looks at the Constitutional Court as a reliable back-up to the authorities in these cases. This is confirmed by the fact that in 2019, the amendment of the Constitutional Court Act allowed government agencies to challenge final judicial decisions before the Constitutional Court by submitting a constitutional complaint. Although this provision was later withdrawn over the objections of the European Commission, it clearly reveals the government's intention: if something does not go through in the system of "unreliable" courts, it will be remedied by the Constitutional Court, which has been "made friendly" to the government. In other words, the aim in these cases was to assert political control over the justice system.

In parallel to the restructuring of the Constitutional Court, the gradual abolition of judicial self-administration and the establishment of a new centralized court administration system started in 2011. This year, for months, the pro-government media continued to engage in harsh, demagogic incitement against judges, with daily statements about judges of being communists and the recurrent false claim that the blood judges of the communist era were still serving in the justice system. This happened at a time when two thirds of judges were appointed after the regime change. At the beginning of that year, for political reasons, the Parliament adopted a law ordering the retrial of certain cases that had already been closed by a final court decision.³

3 See Law XVI of 2011 on the remedy of the convictions related to the riots of autumn 2006.

In other words, one of the theoretically equal branches of power interferes for political reasons in the activities of another, independent branch of power in the interests of a particular political group, on the assumption that the legal proceedings have not been concluded with a satisfactory result. This sets a dangerous precedent and seriously violates the principle of separation of powers.

The systematic attacks on judges and the courts by the pro-government media, turns out to have been a prelude to a very brutal move to prepare public opinion: namely, to lower the retirement age for judges from 70 years of age (since 1869) to 62, which meant immediate retirement for judges older than that. The measure, taken in a matter of days on a motion by an individual member of Parliament, without the involvement of the judges and the judiciary, and affecting 10 percent of the judiciary of 2800 people, was a gross attack on the profession and caused consternation and despair among judges. The outcry was great also on international level, with the media and the legal profession saying that the independence of the judiciary in Hungary was under serious threat, with some drawing parallels with fascist measures.⁴ There can be no doubt that the immovability of judges is an integral part of judicial independence, which in this case has been seriously compromised, and without it there is no independent judiciary, no third branch of power.

74 percent of judges in office in 2011 were appointed after the fall of communism.

Of course, it is not the change in the retirement age for judges by Parliament that is unacceptable, even if the retirement age of 70 of Hungarian judges, which has been in force for 142 years, was in line with the European average, but the extreme way in which it was set. The political purpose is obvious, especially in the light of the fact that, after the measure was introduced, the law prohibited the previous judicial administration, which was still in operation for six months, from appointing judges to fill vacancies. This task was already entrusted to the new chief justice, who started in 2012 and was now considered trustworthy, and who filled the vacant positions, most of them senior judges, with record speed.

By 2012, with the enactment of the Fundamental Law and the entry into force of the Judicial Organization Act, judicial self-administration was abolished and a new centralized court administration system was established in Hungary. The new President of the National Office for the Judiciary (NOJ), who was closely linked to the ruling party and directly to the family of the Prime Minister, had in practice unlimited power not only in personnel matters, in appointing court presidents, but also in the allocation and use of the courts' budgets. The NOJ leader, elected by the Parliament with a two-thirds majority vote for a renewable term of nine years

4 In his book, the former president of the Dutch Supreme Court and the EU Network of Supreme Courts compares the situation in Hungary to the measures taken by the fascists occupying the Netherlands to remove judges by lowering the retirement age, to replace at record speed the president of the Supreme Court and to appoint judges loyal to the new regime, which in 2011 was also described by the president of the German Federal Supreme Court as the most serious attack on the independence of the judiciary. See Geert Corstens, *Understanding the Rule of Law*. Hart Publishing, Oxford and Portland, Oregon 2017. p.5.

took over all the powers of the former Council of the Judiciary and also exercised new powers, essentially without any control on the merits, as a kind of political appointee. Although NOJ leader's powers have changed over time, her leadership and arbitrariness have provoked such outrage, resentment and severe public criticism from the judiciary and the National Council of Judges (NCJ), the only remaining body of judicial self-administration, that she was elected as a Constitutional Court judge in 2019, a position incompatible with the leadership of the NOJ, thus her mandate was early terminated.

Similar changes have taken place in the highest judicial forum, the administratively autonomous Curia. In 2011, the President (the writer of these lines, András Baka – ed.) and Deputy President of the Supreme Court⁵ were removed from office before the end of their mandate, through personalized, unconstitutional legislation, and a judge who had been quietly cooperating with the government was elected as the President of the Curia. From 2021, however, even this was not enough, and the current President of the Curia, who had never held a judicial position before, was elected by the parliament following personalized legislative amendments to the law, despite the fact that an overwhelming majority of the NJC voted against it.⁶ The incumbent President of the Curia, previously a member of the Constitutional Court is biased towards the government, as can be seen from the examination of his activities as a rapporteur of the Constitutional Court. He claims that the rule of law can be an arbitrary instrument against which opposition is justified and that the recognition of the relative primacy of EU law does not mean that a state cannot refuse to implement a decision in specific cases. Elsewhere, he warned of the dangers of “judicial overreach”, calling for judicial interpretation of the law to be kept to a minimum and for judgments to follow the text of the law mechanically.⁷

The restructuring of the Constitutional Court has had a significant impact on the justice system.

With the election of the current Curia president, the government has gone over the top. A member of the Constitutional Court with a “politically” inclined mindset, and with perhaps the least independence from the government, was elected President of the Curia. Among other

5 The removal was ruled lawful by the Constitutional Court (Erményi), but the European Court of Human Rights ruled against Hungary on both counts. See on this the judgment of the European Court of Human Rights in *Baka v. Hungary* (request no. 20261/12), 23rd of June 2016 (<https://hudoc.echr.coe.int/fre?i=001-163113>).

6 „The nomination of Dr. Zsolt András Varga was made possible by two recent amendments to the law, which do not meet the constitutional requirement that the top of the judicial system should be occupied by a person who is independent of other branches of power and appears impartial to the outside observer.” For more on this, see Resolution 120/2020 (IX.09.) of the National Council of the Judiciary on the proposed President of the Curia (<https://orszagosbiroitanacs.hu/2020-10-09/>; Varga's election as President of the Curia was also strongly criticized by the UN Rapporteur, together with other international organizations. See the 2021 report of the UN Special Rapporteur on the independence of judges and lawyers (<https://tinyurl.com/43bvtfnr>).

7 The participation of the President of the Curia in the judicial activity may be contrary to Article 6 of the Human Rights Convention and several judgments of the ECHR, which order compliance with the requirements for the establishment of an independent and impartial court. See the judgment of the European Court of Human Rights in *Advance Pharma Kft. v Poland* (Request No.20261/12), 3rd of February 2022. (<https://hudoc.echr.coe.int/fre?i=001-22001-215388%22>).

things, he considers the European Union's concept of the rule of law to be "tyrannical" and judicial self-administration a "misunderstanding". Many believe that this decision has further compromised the independence of the judiciary, in particular the fact that he was elected to the highest judicial position in defiance of the opinion of the NJC, which questioned the independence and impartiality of the candidate and criticized his total lack of judicial practice.

An ambience of fear and obedience

In the foregoing, we have sought to illustrate the main areas of influence of an authoritarian regime over the courts. These areas are: the ever-changing and changeable legal regulation regarding the courts, the substantive interference of the Constitutional Court in the judiciary, the administrative performance of the NOJ and the President of the Curia.

With the election of the new Curia president, power has been taken to a new level.

There is no space to describe other means of political influence. We will only mention that the new heads of the judiciary, the President of the NOJ or the President of the Curia have broad powers and are also given new ones. The powers cover a wide range of personnel issues, including the appointment of judges and court leaders, the authorization of secondment and working from home, the material means of reward or punishment to successfully influence loyal or even reluctant judges' behavior. Originally the possibility to transfer and reapportion cases to different court also lay in the hand of the NOJ president. This can create an ambience of fear and obedience. There is a wide scope for influencing the judiciary as a whole through the rightly criticized concept of complaint for the uniform application of laws to be submitted by the President of the Curia⁸, the Curia precedents binding on lower tier courts, but also through the frequently changed, incomplete and exceptionally relaxed case allocation system, or even through the five-member panels introduced in the Curia,⁹ which are completely unnecessary from a professional point of view. If we add to this the shocking legal restrictions placed on the right to commence the preliminary reference procedure of Court of Justice of the European Union, we can see how much the room for maneuvering for individual judges has been reduced.

The above toolbox is not only incomplete, but constantly changing. Following international pressure, the idea of a separate administrative court favored by the government has been scrapped, the power of the President of the NOJ to transfer cases to any court and that of the

8 See Dr. György Wellmann, *Critical comments on the new system of ensuring the unity of law* [Kritikai észrevételek a jogegység biztosításának új rendszerével kapcsolatban], Hungarian Law, Vol. 2020, No. 11, pp. 648-655.

9 For more information, see the European Network of Councils for the Judiciary's (ENCJ) briefing on its survey on judicial independence (<https://tinyurl.com/4n9rbeyx>) and Etienne Hanel and Attila Vincze's analysis of the Hungarian judiciary and the internal relations of the courts based on interviews with judges (*A Hybrid Judiciary in a Hybrid Regime: A Case Study on Hungary*) Justin Working Papers 2023, issue 7 (<https://tinyurl.com/3tcmvmrn>).

Prosecutor General to indict before different courts has been removed, and the renewability of the NOJ President's mandate has been abolished, thus reducing its entrenchment. However, the powers available still enable to interfere with the independent judiciary.

What can be done?

This legitimately raises the question of what can be done to restore the independence of the courts. The independence of the judiciary in a non-rule of law state is inherently limited, since it cannot play its rightful role it plays in a system of checks and balances. We have seen that the constant changes to the rules governing the courts, the extension of government power, whether through new legislation, new legal institutions, the appointment of loyalist judicial leaders, the redesigning of the Constitutional Court, or the unlimited role of the prosecution in filtering criminal cases, keep the courts and judges under constant pressure.

The country's current legal system is simply not compatible with the legal system required by the European Union and other international organizations.

Under these circumstances, the full restoration of judicial independence is only possible by restoring the rule of law. If the separation of powers were restored and the Parliament were controlling the executive, if the Constitutional Court were restored to full powers and were composed of independent members with no legal relationship with the ordinary courts, then there would be a chance for an independent justice system. Then even the legal institution of a genuine constitutional complaint could function properly in all cases. We have said this, but we want to stress that the justice system should be organized in such a way that there is some governmental responsibility (e.g. for the budget, infrastructure, IT systems, etc.), but that the judicial bodies elected by fellow judges at different levels of the court system have decision-making or broad and effective supervisory powers over personnel, judicial appointments, promotion and secondments.

But in today's Hungary, all this is still a utopia. Here and now, the only question that can be raised is what can be done to ensure greater independence of the justice system in a non-rule-of-law state. It has to be said openly that the current legal system in the country is simply not compatible with the legal system required by the European Union and other international organizations, and is not compatible with the rule of law in the vast majority of EU Member States. This is shown by the Article 7 process opened against Hungary in 2018, the Commission's published findings on the rule of law, or the so-called "conditionality mechanism", the rule of law conditionality applied to Hungary alone since spring 2022 for the protection of EU funds.

This latter instrument, although it is not a panacea and does not restore the rule of law - has been perhaps the most important step forward in strengthening the independence of the Hungarian

justice system in the last 13 years. In order to obtain EU funds, the Hungarian government has, out of necessity, not only taken anti-corruption measures, but also strengthened the judicial self-governing body, the National Judicial Council.¹⁰

The NJC, as the supervisory body of the central administration of the courts, previously had little jurisdiction, no organization, no infrastructure, no budget, and was created as a decoration when the centralized court administration model came into force in 2012. The NJC was re-elected in 2018, it is to its credit that it has spoken out strongly against the serious violations in the central court administration and the Curia. It is to be thanked to the NJC - and to the majority of judges who consider doing justice a profession - that the relative judicial independence of the justice system in Hungary has largely been preserved.

Not a panacea, but eu pressure somewhat helps

The “super-milestone” requirements for the disbursement of EU funds illustrate the minimum steps the European Commission considers necessary to restore the independence of the justice system. They will not restore the rule of law, but they will strengthen one of its elements, the judicial system. Among other things, the law adopted to meet EU conditions abolishes the limits put on the commencement of preliminary reference procedure by the Court of Justice of the European Union, the right of government agencies to challenge final judgments at the Constitutional Court, the practice of appointing Constitutional Court judges to the Curia, and addresses the challenges of the case allocation system at the Curia.

In addition to the above, the most important change is the strengthening of the role of the NJC in relation to the Presidents of the National Office for the Judiciary and the Curia. The law essentially revives the NJC as a self-governing judicial panel, not so much in an administrative capacity but in a supervisory role. Although its powers are far from exhaustive and are incomplete, the NJC, as a legal entity with a budget and an office, can now exercise a broader and more effective control over the administrative actions of the Presidents of the NOJ and the Curia and the legality of their activities.¹¹ It is no coincidence that senior public decision makers, including the President of the Curia, have already sharply criticized the legislation, which is designed to attract EU funds.

Ensuring the freedom of expression of judges is an integral part of judicial independence. Like everyone, judges have the right to express their views. Among other things, this includes the guarantee that judges, either individually or in the framework of judicial organizations or

10 On this, see Law X of 2023 amending certain judicial laws related to the Hungarian Recovery and Resilience Plan.

11 Hungarian Helsinki Committee - Amnesty International Hungary - Eötvös Károly Institute: *Evaluation of Law X of 2023 on the Amendment of Certain Judicial Acts Related to the Hungarian Recovery and Resilience Plan in terms of Compliance with the Super-Milestones of the Recovery and Resilience Plan*, 23rd of May 2023 (<https://tinyurl.com/mrp537mb>).

associations, are free to express their opinions on legislation, their profession, the organization of the courts, the administration of the courts, the working conditions and the rules governing the courts, and even to speak out in the interests of judicial independence. The freedom of expression of judicial opinion is a complex issue, and its regulation varies from one European country to another, but nowhere is the freedom of expression perhaps more restricted than in Hungary today. In such circumstances, the adoption of the Code of Ethics for Judges in 2022 by the NJC was a major step forward, declaring in line with international standards the right of judges to freely express their opinions on “the law, the legal system and the administration of courts”.

Nowhere in Europe is the freedom of judicial expression perhaps as limited as it is in Hungary today.

But all these are not enough. The government has still not implemented the 2016 judgment of the Grand Chamber of the European Court of Human Rights, which was supposed to remedy the “chilling effect” on Hungarian judges when they speak out in defense of judicial independence.¹² In such circumstances, this independence - and thus the supervisory and control activities of the NJC - is severely limited. It is unfortunate that the judicial reform package has omitted to properly regulate the expression of judicial opinions, despite the clear international obligation to do so.

Concluding remarks

Based on the above analysis of the judicial system, it is not possible to determine in advance, in an abstract way, how the system of independent courts should be designed, how the independence of courts and judges can be restored in Hungary in the most effective way. In this respect, it is possible to set out basic principles and cornerstones which should serve as guidelines not only in the period of restoring the rule of law, but also in the present situation. Our critical analysis of what has happened in recent years in the area of the judicial system took into account these cornerstones, pointing out the institutions and measures that undermine the independence of the courts.

It is clear that the full independence of the judicial system can only be achieved within the framework of the *rule of law*. Only a system based on the rule of law can ensure a functional separation of powers that guarantees that none of the branches of government interferes in the functioning of the other. As we have shown, the exercise of various forms of political interference on behalf of the Parliament, which implements the will of the government, or, in some cases, on behalf of political appointees active in the Constitutional Court, and in the judicial administration, remains absent from the functioning of the judicial system within the framework of the rule of law.

¹² See footnote 4 and Opinion No 25 of the Consultative Council of European Judges (CCJE) on Freedom of Expression for Judges, 2nd of December 2022 (<https://rm.coe.int/opinion-no-25-2022-final/1680a95347%0A%0A>).

It also seems clear that the independence of the judicial system can be ensured by both self-administration and a more centralized model of court administration, supposing that the power of judicial bodies to supervise decision-makers is full and effective in both systems. This is particularly true in judicial personnel matters.

In an autocracy, *within the framework of non-rule of law*, the authorities are pursuing a complete centralization of state functions, and in this endeavor they are also trying to exercise the fullest possible political control over the courts. The most important means of doing this have been described, in that while in the past this was done through the National Office for the Judiciary, which is in charge of the central administration of the courts, in recent years the political control of the courts has been exercised more through the Curia.

Full independence of the justice system can only be achieved within the framework of the rule of law.

In a non-rule of law, there are relatively few means to counterbalance the power of politics over the judicial system. The most important of these is obviously the impeccable judge, who is independent in the exercise of his or her profession and who, in the courtroom, renders a verdict free from influence and in accordance with the rules of the profession. It was with

his/her integrity that the courts, even in the 1980s, achieved the full independence of judgment that was conceivable in the context of the time.

But today this is no longer enough, and under such circumstances, it is essential that the NJC uses the supervisory powers given to them by the law introduced on demand of the European Union. Although these instruments are not exhaustive, we reiterate: “in a world of authoritarian power, only the publicity of judicial self-administration and judicial control can offer some protection against political influence, in order to guarantee the independence of the judiciary.” But effective control for the independent functioning of the courts and a judge who insists on the independent exercise of his or her profession exist only where judicial expression is guaranteed.

Money does not flow to people who are not part of the government's circles

József Péter Martin talks to György Surányi about rent seeking, flawed economic policies and the chances of restoring market conditions in Hungary

Centralized corruption, low productivity and a high investment rate are the hallmarks of the Hungarian economy, reminiscent of the “iron and steel” era of the 1950s communist times, says György Surányi, external university lecturer and former Governor of the Hungarian National Bank (HNB), in an interview for the White Book.

You said in a lecture in September at the Downtown Free University (Belvárosi Szabadegyetem) that there was no crisis at all. Yet, inflation has been well above the EU average, recently two or three times more than the EU average, the economy is in recession, and the long-term structural problems are not getting better, but rather getting worse. What is this if not a crisis?

To be more precise, there is no economic crisis in the classical sense of the word, but there are warning signs in other areas. We can talk about a crisis of morals and values, an energy crisis, and a crisis in the healthcare system, in education, and in social policy. But there is no crisis in economic terms.

Why?

We can talk about an economic crisis when there is a prolonged, significant downturn in the economy, coupled with financial and payment problems and/or significant unemployment. At present, however, the median growth expectations for 2023 signal a decline of between zero and half a percent, which is a marginal decline. Fortunately, this is not, or only marginally, coupled with a rise in unemployment. Employment is currently at a high level, close to full employment. At the same time, it is true that real earnings are expected to fall substantially, by five to six percent, this year. This is obviously bad news, but if we consider that in previous years there was a fairly significant increase in real earnings, this fall in itself cannot be regarded as a crisis. It is precisely this fall, combined with a decrease in world energy and food prices, that seems to be the engine of restoring the country's position of external balances. This is a key factor for economic stability. If the deficit of external balances had accumulated for two or three years at the same rate as it did last year, this could have led to a situation of near-crisis. But, as the sanctions introduced by the European Union and the G7 countries have been efficient, and

the European economies have adjusted their energy structure and consumption patterns to the new circumstances with an unprecedented speed, world energy and food prices have fallen significantly. Another factor contributing to a healthier external balance has been a substantial moderation in domestic investment and consumption levels in the face of a mild economic recession. So, for these reasons, I think there is no economic crisis.

In addition to existing and potential external shocks, do you see any internal factors that could undermine financial stability in the short term?

I see political factors, both foreign and domestic. If Hungary continues on the path of isolation from its partners, the European Union and its Euro-Atlantic allies, the financial situation could also take a negative turn. An important part of this dilemma is when and to what extent we will have access to EU funds. It is an illusion, or rather an unprofessional approach, to say that foreign direct investment from the Far East can replace European Union funds that are free, non-repayable and the disbursement conditions are in line with our priorities and value choices. This would be a false assumption also from a purely financial point of view, because EU money comes interest-free and improves the country's external balances, whereas foreign direct investment is of course not free, and while on average a profit of 50-60 percent exits the country in the form of dividends, thus worsening Hungary's external balances. Furthermore, the preferences of foreign investors in terms of employment policy and environmental protection may diverge from the Hungarian priorities.

Many overpriced investments, such as some of the mushrooming stadium projects, increase the GDP at the moment of investment, but then gradually consume the growth, because they do not generate the income needed to cover their long-term maintenance and operating costs.

Can we quantify how much EU money, at the very least, needs to flow in to keep the Hungarian economy on track?

Ab ovo there is no such threshold because it depends on the economic policy of the Hungarian government. If, for example, the economy was to return to a path of balanced and sustainable growth, we would not be in crisis without EU funding.

Any chance for that?

There is political infighting among members of the government. The minister for economic development, backed by the prime minister, seems to want to return to an aggressive growth path. This policy may hinder the return to a financially balanced economy. But the Ministry of Finance and the National Bank of Hungary (NBH) – after so many mistakes and failures – are now in favor of maintaining a financially balanced economy. Thus, one side is prioritizing growth, and the other the need for containing inflation. But these strategies in fact represent two opposing economic policies: inflation control is based on a reasonable limitation of demand, while the other side is determined to stimulate demand. Of course, by artificially boosting

domestic demand and consumption, it is possible to accelerate growth and investments, as was done between 2016 and 2019, but this will put the economy on an unsustainable track. Growth needs to be led by exports, competition and private investment to be sustainable. There is a trade-off between a domestic demand-led boost of the economy and sustainability. The seemingly impressive numbers, which showed an average growth of 4.5 percent between 2016 and 2019,

were achieved at the expense of strong structural distortions. These results were achieved thanks to a consumption and investment growth that had not been driven by exports and productivity growth. We are talking about investments that are clearly overpriced and uncompetitive – especially in the public sector –, signifying a trend that is detrimental to the creation of a modern, competitive economy. Let me emphasize: the impact is not neutral, it is detrimental. These – overpriced – investments, such as some of the mushrooming stadium projects, increase the GDP at the moment of investment, but then gradually consume the growth, because they do not generate the income needed to cover their long-term maintenance and operating costs. It would be possible to embark on a sustainable growth path without EU funding, but that would mean an annual growth rate of one or two percent, not four percent. So, we had better get that funding, and spend it efficiently, because it is hard to find another country that used such a vast amount of non-repayable funds that the Hungarian economy had received over the past 15 years with such low efficiency. The economy's annual productivity growth was less than one percent over the last 13 years, hovering around 0.8 percent; that is half of the annual productivity growth between 2000 and 2010, and even that was not very substantial.

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This is in sharp contrast with the relatively high rate of total investments, including both public and private investments. Also, the high investment levels may seem surprising in the light of the systematic deconstruction of independent public institutions, and the deterioration of the rule of law situation and corruption indices. So, from this point of view the business environment has been deteriorating for a very long period now. Apart from overpricing, what explains this discrepancy?

Let me be a bit more straightforward. In peacetime, an investment rate of around 30 percent for an OECD-member EU country is almost unprecedented, reminiscent of the investment levels in the period of the “iron and steel country” of the 1950s during the communist regime. If we consider that with such a high investment rate – which has been around 28-30 percent for the last five to six years – the average growth rate since 2010 has been no more than 2.0-2.5 percent, we can see that the so-called ICOR indicator¹ has hit a highest level, so overall we are talking about low investment efficiency. The 30 percent investment rate includes overpricing, which brings in

1 The Incremental Capital Output Ratio (ICOR) is the ratio of the investment rate to the rate of long-term GDP growth and shows how much new capital investment is helping growth. The higher the indicator, the less efficient the use of investment.

significant revenue for some players, but this money will most likely not be re-invested in the economy. The lack of sufficient competition also very often leads to inefficiencies in the case of private investments. This is especially true in the case of domestically focused contractors who are part of the government's circles; this segment of the economy is typically closed for "independent" contractors. The telecom and IT sectors are textbook examples: there used to be four companies operating in Hungary, but now only two firms control this segment. The two create an oligopolistic situation, yet the Competition Authority just looks away with arms folded when telecom companies announce at the beginning of the year that they automatically raise their fees in line with expected inflation. And the NBH is surprised and says: gee, prices for telephony in Hungary are going up, when prices are falling everywhere else in the world! We are talking about private sector companies, which are obviously dividing up the market and have a (price) arrangement between them. Or look at fuel prices: the long-standing price cap imposed by the government has bankrupted the smaller petrol station operators, and now the three big operators – Mol, OMV and Shell – have almost identical prices. Again, the Competition Authority is nowhere to be seen. However, foreign-owned and Hungarian private companies that are export-oriented operate efficiently, because they have to compete fiercely on the world market. So, their investments and development projects must make sense both economically and financially.

Despite the institutional destruction and systemic corruption, growth was relatively strong until the COVID-19 epidemic. Does this surprise you? The literature on corruption mentions cases when corruption can even "grease" the economy; is this what we have witnessed in Hungary?

I am not surprised. It is important to highlight three elements that were one-off and non-repeatable conditions for this rapid growth. These conditions are not present today, so it would be very destabilizing to try to make history repeat itself, which we know we cannot do... We must bear in mind that the Hungarian economy suffered a very strong external deflationary shock between 2013 and 2019. Even though the government overheated the economy by generating excess demand, this did not immediately lead to a spectacular imbalance and accelerating inflation. While inflation rose quarter on quarter from the beginning of 2017, it only reached about 5 percent in January 2020, because it started from a very low level. Also, the availability of free labor sources was sufficient domestically, but these sources were exhausted by around 2018. Furthermore, the central bank has made a complete turnaround in its monetary policy after 12 years. In 2016-2017, I was told that the continued real depreciation of the forint, coupled with a double-digit nominal wage growth, a loose fiscal policy, a double-digit growth in the volume of credits and a growing negative real interest rate would not lead to inflation or external imbalances. This policy bluff even had a name: it was referred to as a "high pressure economy". Now, at last, those headquartered on the Liberty Square (Szabadság tér, where the

The economy's annual productivity growth had been less than one percent over the last 13 years; that is half of the annual productivity growth between 2000 and 2010, and even that was not very substantial.

NBH is headquartered) have realized that this is not the case and have adopted a much stricter monetary policy. So, it turns out that the exchange rate does matter after all, and it also matters if wages rise too fast relative to the productivity growth. It is also harmful if the budget is used irresponsibly to stimulate the economy. So, it was temporarily possible to drive growth with domestic consumption and domestic investments. But this has gradually eroded the balance, and the situation is now worsened by the combined impacts of the war and the energy crisis.

You are saying that the economic policy of the ruling Fidesz party – known as the “system of national cooperation”, or NER – started to fail in 2016-17, when they started to overheat the economy. Can we say that since then corruption started to “grease” the economy, for example by overpricing?

In the short term, price inflation, corruption, and unduly high profit margins paradoxically stimulate growth, because those who benefit from it can develop and invest in expanding their own capacity in safety, unchallenged by competitors. The cronies can be sure of hefty orders coming their way in the medium term. But the macroeconomic consequences of this are two-sided because these corruption-driven companies are not export-oriented, they systematically avoid pure competition and thus tend to appear in sectors where central government contracts are available. They can set high profit margins, and with a few exceptions such as Mol and the Hungarian Bankholding (a newly established financial institutions from the merger of three banks portrayed by the Financial Times as “the bank of Viktor Orbán”²), these companies and sectors are less affected by price caps and Robin Hood taxes. In the medium and long term, however, this economic model undermines growth because it shuts out competition, reduces efficiency, morally undermines economic actors, and causes many businesses and investors to exit the market because they see no chance of succeeding with honest means.

In the short term, price inflation, corruption, and unduly high profit margins paradoxically stimulate growth.

Can it be said that economic policy, at least since 2016, has been at the service of making NER actors stronger? If so, what are the main forms of manifestation, and could you estimate the share of the NER-dominated segment in the Hungarian economy?

I cannot make such an estimate. It is certainly significant, but perhaps not to the extent that one would assume from the outside. It is no secret; the government admits it openly that it wants to put Hungarian capitalists and entrepreneurs in a competitive position. Had this group been selected based on competition, this would not be such a big a problem, especially if this went together with leveling out competitive disadvantages in certain segments. What I mean by this is that due to historical reasons, the country fell 40-50 years behind its Western European peers in developing a classical market economy here, which is why there was no strong Hungarian capitalist class at the time of the political changes. How could there have been one? If Hungarian businesses could get some kind of help to catch up in a way that is transparent, accessible to all

2 Financial Times: The Bank of Viktor Orbán (<https://www.ft.com/content/f9ba0f39-429d-4d9d-bd2e-fb78b363dfe4>).

and is competition-based, it would be acceptable. It is important that help should not come in the form of easy money, because that is the most seriously corrupting factor in the Hungarian economy. Unfortunately, the European Union also has a responsibility here because the EU hands out non-repayable subsidies to businesses in the competitive sectors across Europe. This represents a non-negligible proportion of GDP. This approach has three possible outcomes: either uncompetitive businesses become competitive, or they are competitive but those who receive subsidies simply pocket the easy money and do not develop further – or a combination of the two. In economic terms, all three outcomes are disastrous, not to mention the moral consequences. It is unacceptable that a significant proportion of taxpayers' money should end up in private pockets due to a biased allocation process. Moreover, not only do these rent-seekers in the crony circles get unduly favorable investment deals, but their goods and services are mostly sold without competition. So, the problem is not that economic policy is helping domestic entrepreneurs to compete to some extent, because they are obviously starting from a disadvantaged position, but that it is being done unfairly and in an inefficient structure. Consequently, despite an investment rate of 30 percent, the potential annual growth rate of the Hungarian economy is no more than 2-3 percent at most.

And we have not yet talked about the generous “growth loan” and “growth bond” schemes provided by the government and central bank.

I am not ashamed to say that the growth loan idea was first proposed by me to the former central bank governor in the autumn of 2008; but it was rejected at the time. Later, there was a substantial difference between what I proposed and what was finally implemented. I proposed an interest rate reduction compared to the central bank's benchmark interest rate, not a fixed rate of zero for ten years. I also proposed that this should be available only for new investments, but instead at least half of the loans were arbitrage, meaning that for investments already under way the less favorable loans were swapped with a more favorable one, and/or were also spent on current assets. This is not efficient; additional output through this channel has been limited. The sums involved are huge: a total of HUF 5200 billion (EUR 13.3 billion) at present, of which HUF 3700 billion (EUR 9.5 billion) has been spent on growth loans and HUF 1500-1600 billion on growth bonds. Also, the growth loans were justified while the credit portfolio was shrinking

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in the Hungarian economy, from 2009 to around 2015. But from 2017 onwards it was not justified at all, because by then the credit portfolio had already grown organically by two digits, so there was sufficient liquidity in the system.

As a result of these state programs, the NBH has accumulated gigantic losses.

In 2023 alone, the NBH will lose HUF 600-700 billion out of HUF 5200 billion worth of loans. By contrast, the companies that take out the loans will benefit even more. This is because the companies that took out these loans must pay back much less in present value terms because of inflation. That's a huge windfall profit for which they have not done anything. In

this respect, the growth bond scheme introduced in 2018 is even more blatant, without any macroeconomic justification, because the economy has grown significantly, the investment and credit volumes have increased, even too quickly. The growth bond scheme was introduced with the sole purpose of making of providing access to additional funding to businesses close to the NER, whose credit lines with the banking sector had been exhausted. And the terms of the growth bond scheme are even more favorable than those of the growth loan. We are talking about 15-year bonds, so during that time the company does not have to repay anything at all, it only pays the ridiculously low interest; one can imagine how much the actual (present) value of the amount to be repaid will be reduced in the current inflationary period, and therefore how much extra profit will be made in some pockets. The NBH bought these bonds in a primary issue, meaning off-market and not at market rates. This practice is radically different from the corporate bond purchases of the Bank of England, the Federal Reserve or the European Central Bank, whereby they bought securities in secondary circulation at market rates which were then graded by the market.

This undermines a competitive market economy while encouraging rent-seeking.

Overall, the state spends a horrific amount on so-called economic development, including loan programs, which is twice the OECD average, amounting to 9.5 percent of the annual Hungarian GDP. Meanwhile, there is no money for education, health care, social policy or adequate funding for the armed forces. These dysfunctional elements are changing the structure of the

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economy in the wrong direction because they are confining competition within tight limits. With the growth bond, we can suspect corruption. But if we want to catch up and increase competitiveness, we need high-quality education more than anything else; but we do not have it now. I believe it is perfectly normal that, in the event of an external shock such as the pandemic, fiscal and monetary policy should try to alleviate the burden of the inevitable economic downturn.

But here, too, at least twice as much money was pumped into the economy as should have been, and worse still, in a terrible structure. The aim was not to alleviate the burden on those who suffered from the downturn, such as the employees and small entrepreneurs, but to splash out a lot of money on investments that would have been realized anyway without any subsidies, and the beneficiaries included the richest people and the system's cronies.

In a recent lecture you also said that there is a moral and value crisis in the Hungarian society. The fact that this statement applies to the state is obvious from what you said above. Did you also have economic actors in mind?

Yes, unfortunately. If you ask entrepreneurs today about their plans, nine times out of ten the answer starts with "if we can get EU funding, we would like to do this and that". This is tragic both economically and morally, because how can anyone think that while things are going well, I can keep the profits, and if they are not, then the taxpayer should come in? The moral abyss into which we have sunk is inexcusable.

You spent a long time working abroad, as the regional chair of board for Central Europe at the Banca Intesa Group, which also owns the Hungarian CIB Bank. How unique do you find this kind of moral crisis, which also manifests itself in opportunism and corruption, and which characterizes some of the economic players in the country?

It would be unfair to say that everything is rosy beyond our borders. There is also a high level of corruption in neighboring countries. But there is one important difference: elsewhere, corruption is not centrally organized, and the economic sector is much more independent of politics than here. Hearing this, some people in Hungary would say that it is even not corruption that is going on (but a kind of resource transfer), and that corruption is often really difficult to prove because it is taking place within the formal legal framework.

This resource transfer can still be called corruption, because the NER elite and their connected circles get rich by abusing their power. But how do you see the role of multinational companies? I see two parallel processes. On the one hand, foreign companies are often intimidated, harassed and blackmailed by those in power, and many even get squeezed out of the market. On the other hand, another, not insignificant group is making its own compromises with the system, pocketing subsidies in return for not criticizing but rather doing business with the government, thereby giving support to the system.

Basically, I agree. It seems to me that with those multinationals that are export-oriented rather than domestically focused, the government is trying to establish an acceptable relationship and is making agreements and providing subsidies – sometimes I think they are too generous –, so that they feel comfortable operating in these export-oriented segments. Those foreign companies that are in the service sector and are essentially domestically oriented, well, the government is trying to keep them under pressure. For example, it is using the retail sales tax to make foreign-owned businesses, which are much more competitive than domestic ones, to suffer losses. If the government succeeds in squeezing them out with such tactics, then what we have seen with telephony will once more happen here: a serious price increase. As for toing the line, I am sad to see that many people and businesses are seeking a compromise with the government, often at the cost of decency.

Easy cash is the most seriously corrupting factor in the Hungarian economy. EU funds should not be passed on as easy cash, but should rather be made available on softer terms than what it is available on the market.

But why should they be expected to stand up for the rule of law if this system enables them to make a profit in the short term? What do international examples show?

International examples are not very encouraging in this respect. Investors, medium-sized and large companies focus on legal and ownership security in an economy and the predictability of economic policy, because then they can plan, expand or downsize in the medium and long term. However, large foreign-owned companies in Hungary even refrain from publicly criticizing decisions that are clearly unfavorable to them or from advertising in the independent media, which is below my expectations, and I have not seen this elsewhere.

I think the situation is worse than that, or at least it is more complex. Strangely, many of the multinationals see this economic environment as predictable. According to a survey by the German-Hungarian Chamber of Industry and Commerce, the proportion of German companies that were willing to reinvest in Hungary in 2023 fell from 88% in 2022 to 79% in 2023, but this was still a very high rate. And paradoxically, legal certainty and predictability were seen as improving between 2015 and 2022.

This is surprising because the German ambassador in Budapest recently gave an interview in which he said the opposite. Perhaps perceptions are changing, this is the first time we have heard this. What surprises me is the total lack of solidarity among foreign investors when, for example, the government imposes discretionary taxes on certain sectors. This should not be the case.

The government is faced with huge budget deficit. If you were the minister of finance, what measures would you take to restore the budget balance?

Fortunately, no such curse is on me! But it is possible to think about it. Although the deficit could be as high as 5-7 percent this year, and the gross public debt to GDP ratio is around 70 percent, I do not see this as the biggest problem, but rather that the Hungarian society and the Hungarian economy are facing serious structural problems. These are well-known issues: an underperforming healthcare and education system, lack of adequate social policies and law enforcement, insufficient funding for research & development, and innovation. So, while the balance sheets have been stretched and the budget deficit and public debt are high, the government's spending has not resolved any structural problems and has not even started on any of it. There is some progress in one area, but not without controversy: the wage increases approved for medical staff and measures against bribery ("gratitude money"). But here too, there are undesirable side-effects, such as an implicit restraint on people's performance level, because they have forgotten to attach performance criteria to wages, which in turn has led to a sharp increase in the waiting time for certain types of examinations, treatments and surgeries. Meanwhile, there is a massive centralization happening, and we already know from the communist-era planned economy how centralization does not solve serious structural problems, but rather the opposite... People in the government repeatedly said that there is no money for these sectors, and – quite absurdly – they blame Brussels for not giving money for this. It should be clear to everyone that teachers' salaries must be paid from Hungarian taxpayers' money, and the EU funds have nothing to do with it. When they say that there is no money, it is simply not true in this form. With little effort, thousands of billions could be freed up and reallocated in the country's budget.

During the pandemic, the aim was not to alleviate the burden on employees and small entrepreneurs; the beneficiaries included some of the richest people and the system's cronies.

In which areas?

For example, in public media, which sucks up around HUF 200 billion per year, including advertising revenues. The country spends HUF 110 billion on government propaganda every year; two thirds of this is completely unnecessary, because it does not serve to inform the public, but to glorify the government and mislead the public.

The third factor is the amount spent on professional sport, which amounts to HUF 450 billion a year. As a proportion of the GDP, this is roughly one and a half times what OECD countries usually spend. And that's not even counting the construction of an athletics stadium for HUF 330 billion. In 2023, HUF 670 billion was spent to buy Vodafone and another 1000-1200 billion will be spent to buy the Budapest airport. The state should not be investing in these sectors. We are talking about horrendous sums of money. We have already mentioned the amounts

allocated to economic development, which is 9.5 percent of Hungary's annual GDP, twice as much as the OECD average. If a government wants to pursue a more active economic policy – and I have reservations about this, by the way –, 6-7 percent would be more than enough. And it should be done in a transparent way and for the right purposes. Should 2.0-2.5 percent be released here, that would mean HUF 1800-2000 billion a year. Szerencsejáték Zrt. (the gaming company) spends over HUF 10 billion a year on sponsorship, and at no times does money go to people who are not part of the government's circles. It is also unacceptable that the annual operating costs of the central bank, including wages, have soared to HUF 100 billion. In

In neighboring countries, the economy is much more independent of politics than in Hungary.

addition, rent-seeking companies and entrepreneurs who have access to low-interest state loans also enjoy extra profits thanks to high inflation, and are not taxed. I have no problem with a company making a profit amounting to even a thousand billion forints; the problem is when, in a climate of limited competition, its profit margin relative

to the amount of capital invested exceeds 15-20 percent in “peacetime”, meaning a period of price stability. Yet, we often see profit margins of 100 percent in monopoly conditions, for example in casinos or in the case of some construction companies.

Large foreign-owned companies refrain from publicly criticizing the government's decisions even if they are unfavorable to them, or from advertising in the independent media. This is below my expectations; I have not seen this elsewhere.

What changes in the tax system would be justified?

These windfall profits of the crony companies above should be taxed. Furthermore, it is unacceptable that the corporate tax rate should be 9 percent regardless of the profit rate, and that the government should, in certain cases, grant further discounts on this low rate. Don't mistake me, I don't wish to bring back the earlier corporate tax rate of 30-35 percent; but a global minimum tax of 15 percent should be paid by everyone. It is also a clearly bad system where the personal income tax is 15 percent for everyone. I am not, of course, whining for a return to the pre-2009 personal income tax system, because it held back productivity and

boosted the grey economy, and it was operating at a tax rate of close to 65-70 percent of average earnings.³ We don't want the return of that. But why not have a marginal tax of 20 percent above twice the average earnings and 25 percent above three times the average earnings? That's miles away from the tax wedge we've seen before. And if we were to abandon the flat tax – which only Hungary applies in the EU; everywhere else there is a tax rebate up to the minimum wage or a zero rate – then a dual rate income tax would open the way to lessen the tax wedge on low earners. Contrary to widely held assumptions, the tax squeeze on low earners has been significant by European standards, thus tempting this group of people to hide at least a part of their earnings from the tax authorities. I would not touch the VAT, because cutting it would undermine the budget without effectively lowering prices. Under the right conditions and partly linked to performance indicators, the wages in sectors that are now facing structural problems – such as healthcare, education, culture, social policy, policing, research, development and innovation –, could be raised gradually to an acceptable level. This process should go together with developing the system so that it is modern, rational, and productive. The outlined spending reallocations could lead to significant improvement in these sectors in four to five years, without having to cut back on spending in other areas. In education, for example, digitalization could save students from having to carry backpacks weighing tens of kilos every day, and a modern curriculum could avoid the situation where, according to the latest surveys, 40 percent of eighth-grade students are functionally illiterate. Digitizing the public sector would also free up significant resources. In the healthcare sector, there should be a consensus on much needed structural reforms between the medical profession, funders, insurers, and the patients. Currently, there is no sign of a dialogue.

Hungary should first settle its row with the European Union. For me, this would have the symbolic meaning that we are returning to the path of a competitive economy and the rule of law, where corruption is the exception and not the rule.

With the measures and economic policies you have outlined, could the country move away from the current economic model – which is based on loyalty and rent-seeking – towards a competitive market economy? What else is needed?

To begin with, the now permanent state of emergency, and linked to that, the continued emergency legislation that started during the coronavirus epidemic, should be stopped. Such a long period of emergency-style governing is unprecedented in the free world. Also, the government should pursue an economic policy that respects private property and is based on competition and legal stability and predictability. The rule of law must be restored. You cannot make major changes to tax rules in 24 hours; you cannot interfere with everything – including the Constitution, now narrowly considering it from an economic point of view – several times a year. We need a system in which (now supposedly) independent institutions regain their

3 The tax wedge shows the percentage of the total labor cost, i.e. gross wages and salaries plus employers' charges, which the state deducts in the form of taxes and contributions.

autonomy, so that we can have a functioning economic competition authority, a functioning public prosecutor's office and transparent statistical reporting. We need a central bank that – through its supervisory function – strengthens fair competition in the banking sector and measures all players in the market by the same standards; it should not use its powers for punishing those players it does not like, but rather for warning and setting deadlines for compliance with the law and for remedying regulatory shortcomings. So, we need an impartial state administration with a justice system where decisions are taken within a reasonable timeframe.

Should the way the EU disburses money also be changed?

EU funds should not be passed on as easy cash, but should rather be made available on softer terms than what it is available on the market. Naturally, full accountability should be always maintained. This could include the state investing in a company, strictly as a silent partner. The conditions could include the state not asking for dividend to be paid on the capital for five years, and giving a buy-out option to the majority owner at the end of the five years. Dividend payment would start after five years. Then, after ten years, the state would have the option to sell its share to anyone. This model would help the company to develop and at the same time, encourage it to get back on its feet as soon as possible and give back to the state the capital it has received. It would essentially work like the Marshall Aid, which amounted to no more than 3.0-3.5 percent of the GDP of a given country. Hungary did not get Marshall Aid, but we have received that much money from the EU every year. At the time of the Marshall Aid, either a development bank or an investment fund was set up everywhere, and the recipients paid back the aid – on soft terms, but they did pay it back. This created a circular mechanism, with the money reinvested again and again into new companies, and of course under equal and competitive conditions. For all this, of course, Hungary should first settle its row with the European Union. For me, this would have the symbolic meaning that we are returning to the path of a competitive economy and the rule of law, where corruption is the exception and not the rule.

What are the chances of this happening?

I used to be optimistic, but now not so much. I don't see any chance of a turnaround in the short term, although knowing the prime minister, I can't rule out that he might change his mind overnight, but I wouldn't bet big on it.

And how do you see the role of the opposition in the process of the future reconstruction of the market economy?

The opposition is facing terribly difficult conditions: it is extremely fragmented and lacks the necessary financial resources. They are under huge pressure from all angles, including the state media and state institutions. Given all this, I don't see the opposition being able to make an offer to voters that would substantially change the outcome of the elections in a couple of years.

In what direction is pointing the economic policy of the opposition parties?

Some of the parties have a vision with a potential for some kind of positive turnaround, but when I hear things like doubling the state-funded cuts in utility bills, or lowering the VAT, or extending the price caps – including on spa tickets –, or when they make pension proposals that are completely unrealistic, then I get disheartened. These are exactly the kind of proposals that the communist regimes failed to deliver after more than four decades.

The interview was conducted on 10th of October 2023.

Public policy must be reshaped

Promoting transparency and accountability of the government

The transparency performance of Viktor Orbán's System of National Cooperation is disappointing, and therefore a comprehensive re-regulation and fundamental change in enforcement practice is needed in the areas of freedom of information, the asset declaration system, the protection of whistleblowers, lobbying and campaign financing. In the following article, Miklós Ligeti, Head of Legal at Transparency International (TI) Hungary, analyses these issues and makes specific proposals in these areas, some of which have already been voiced by the organization.

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After the political transition in 1990, the political elite was committed to build democracy and establish the rule of law. The period up to 2010 was characterized by measures to strengthen accountability government, although there were some setbacks, so that transparency in the exercise of public authority and in the use of public funds was not fully achieved. Looking back from the present, it is safe to say that Fidesz's rise to power in 2010 marked the beginning of a new era for the rule of law and transparency. During 13 years of a government, which calls its kitschy rule the "System of National Cooperation", the regulatory and practical solutions designed to ensure that citizens are informed and that public authority is accountable have been weakened to an unprecedented degree, and in some cases, entirely eliminated.

In the upcoming paragraphs we focus on five areas of public transparency that are also crucial in the fight against corruption. The overview covers the accessibility of public interest information (I), the asset declaration system (II), the protection of whistleblowers (III), the regulation on contacts with stakeholders ('lobby regulation') (IV) and the financing of political campaigns (V). The practical functioning of these five areas is described in a state-of-practice review, including major recent legislative changes. We also assess the measures taken by the government as a result of the European Commission's conditionality process launched in April

2022 to restore the rule of law in Hungary. Under each topic, we present TI Hungary’s proposals, the implementation of which would make a substantial contribution to the rebuilding of the rule of law in Hungary.

I. The deliberate dismantling of freedom of information

After 2010, the government deliberately dismantled the legal and institutional framework for freedom of information. First, as early as 2012, it abolished the office of the ombudsman responsible for this area, and then, by constantly amending legislation, it has created new obstacles to access data of public interest. Compared to ten years ago, which in retrospect seems almost idyllic, the protection of future decisions, the trade secrets of their suppliers and the primacy of copyright, among other things, can now be invoked by public authorities and organizations using public money to refuse to answer questions, while the data requester can only ask the same question once a year. Amendments to the law which seek or cause a reduction in the enjoyability of inherent fundamental rights demonstrate that those in power see legislation as a tool which can be used without limit to maintain the stability of their rule and are prepared to overturn by law any court judgments which are inconvenient to them.¹

After 2010, the government deliberately dismantled the legal and institutional framework for freedom of information.

The government only abandoned its policy of deliberate destruction in the area of freedom of information in response to the European Commission’s rule of law conditionality process in 2022. Moreover, in addition to the withdrawal of some restrictions, it has introduced some new provisions to strengthen public access. Among the positive developments of the past year we can mention that public authorities are no longer allowed to make the fulfillment of requests for information dependent on the ex-ante payment of a ridiculously high charges, or to trick with responding to requests for information within 15 days or 45 days. In 2023, certain details of contracts financed from public money will have to be published on a dedicated website; those who fail to do so can face fines of up to HUF 50 million. Another novelty is that courts will have to rule much faster in freedom of information litigations in cases where a data request is denied. However, while the government has given, it has also taken away, as it has strengthened the protection of trade secrets, giving another tool for secrecy.²

1 Among the many cases, we refer to Act C of 2016 amending the Tax Code, which contains only one provision, and which expanded the concept of tax secrecy to tax-exempted subsidies for spectator team sports (abbreviated in Hungarian as “Tao”) within the scope of tax secrecy. The purpose of the amendment was to prevent the court from ordering the disclosure of this data in a lawsuit brought by TI Hungary. The government’s attempt failed and TI Hungary won the lawsuits for the transparency of the so-called “Tao” money, see TI Hungary: *TI Hungary wins the lawsuit - Tao is public money* [Végérvényesen pert nyert a TI – közpénz a TAO], 27th of October 2017 (<https://transparency.hu/hirek/vegervenyesen-pert-nyert-a-ti-kozpenz-a-tao/>).

2 See the provisions of Act CXII of 2011 on the Right to Informational Self-Determination and Freedom of Information, as amended by Act XXXVIII of 2022, Act XL of 2022, Act XLIV of 2022 and Act LVI of 2022.

The result is mixed at best, and not only because the more severe restrictions - such as the protection of pre-decisional data, the prohibition on re-submission of data requests, and invocation of national security considerations - remain in place for the most part. On one hand, while some of the measures are appealing, their practical impact is minimal. The fact that data on contracts financed from public money should be made available does not make transactions detrimental to public assets disappear. Although a fine of HUF 50 million can hurt even organizations with significant budgets, the only real deterrent force would be to make the contracts themselves public and, if this is not done, to prevent payment under the contract. But that is not the case. The situation is similar for speeding up freedom of information litigation. Undoubtedly, faster litigation means faster access to information, but initial experience shows that these proceedings are still protracted and drag on for at least a year. A truly timely availability of the data would result if the information were voluntarily and proactively disclosed and the data requester would not be forced to go to court. So we can hardly speak about timeliness.³

However, the problem is not only due to the quality of the rules on freedom of information, and therefore cannot be completely eliminated by changing the legal provisions. To understand what has happened in the area of access to data of public interest, it is necessary to briefly review the repertoire of power techniques in the post-2010 period. As soon as the government realized that the ever-increasing restriction of the enjoyability of inherent fundamental rights was not living up to its hopes, it introduced more and more restrictive provisions. The successive legal restrictions were made necessary by the refusal of the courts, which ultimately control access to data of public interest, to take notice of the government's desire to ensure that data on the operation of public power and the spending of public money were not available, or were available only to a narrower circle than that designated by the courts. Unable to enforce its intentions by changing the rules, the government has begun to systematically undermine the guarantees that protect the independence of the judiciary. Although the government has by no means succeeded in taking the justice system captive, some of the judiciary is now more sympathetic to the authorities' aspirations than it was even a few years ago. The government's dogged minefield has largely succeeded, as there are now courts committed to enforcing bad rules that serve the interests of power. This combination of bad rules and biased enforcement has led to a significant decline in the accessibility of public interest information in Hungary over the last ten years.

The problem is not only due to the quality of the rules on freedom of information, and therefore cannot be completely eliminated by changing the legal provisions on freedom of information.

3 On this, see TI Hungary, Public Interest Data Requests: regulation changes, breakthroughs lag behind [Közérdekű adatigénylések: a szabályozás változik, az áttörés elmarad], 20th of October 2022 (<https://transparency.hu/hirek/kozerdeku-adatigenyleselek-a-szabalyozas-valtozik-az-attores-elmarad/>).

Just as restricting the enjoyability of inherent fundamental rights alone was not enough to destroy freedom of information, neither will the partial withdrawal of restrictions bring spectacular and rapid results. Public authorities, which are essentially closed and hostile to the interest towards the information they hold, have shown no greater willingness in the past year to disclose data about their operations or to comply voluntarily with requests for data. Unfortunately, the legislative changes imposed by the EU will not be able to change the reflexes of the authorities to refuse public access. And it is unlikely that the government will be willing to change the attitude of public authorities beyond the rather anemic legal provisions designed to strengthen public access.

What should be done?

Returning to the “zero hour” state

- ▶ As a first step, all the restrictive provisions put in place over the past decade or more should be repealed.
- ▶ It is not only the Freedom of Information Act that needs to be weeded out of restrictive regulations, but a number of other laws and regulations need to be revised, too.
- ▶ This will allow us to return, at least at the level of the regulations, to the “zero hour” state of 2012, but we cannot be satisfied with that.

Automatic data disclosure

- ▶ Further legislative changes are also needed, for example, mandatory disclosure of public contracts and public tenders.
- ▶ The obligation to disclose data automatically, without a specific request, should be extended to all types of data that are currently subject to litigation.
- ▶ The requirement of transparency should be enforced for all public fund users. This includes, for example, companies and individuals using domestic public money or EU funding, as well as political parties and their foundations.
- ▶ Public interest asset management foundations should also be required to fulfill their freedom of information duties.
- ▶ The rules governing freedom of information litigations should also be fundamentally reformed to ensure equal opportunities between litigants.

Extending the concept of public money

- ▶ The proposed amendments require a complete overhaul of the freedom of information legal framework, and the review should therefore also cover the Fundamental Law. In particular, the Ninth Amendment to the Fundamental Law has proved to be destructive to the accessibility of data of public interest.
- ▶ As a result of the narrowing of the concept of public money to public expenditure, revenues and receivables, the interpretation of the applicable law has changed and payments made to subcontractors of companies that have won public contracts are no longer deemed public money and therefore respective information cannot be accessed.⁴
- ▶ The withdrawal of the Ninth Amendment is therefore absolutely necessary, which, if it occurs, will also entail the decisions of the Curia and the Constitutional Court based on it.

Personal responsibility

- ▶ The Criminal Code would also need to be amended to ensure that the head of an organization, who unlawfully conceals data of public interest, can be held personally liable if the misuse of data of public interest is the result of his or her omission.

New Freedom of Information Ombudsman

- ▶ In the meantime, until the proposed changes take place, a Parliamentary Ombudsman with strong powers to oversee compliance with freedom of information requirements and genuinely independent of the government should be elected.
- ▶ The new Freedom of Information Ombudsman should be empowered to require organizations that unlawfully withhold data of public interest to hand over the data, to impose dissuasive fines for failure to do so, and to temporarily prohibit infringing organizations from carrying out activities involving data of public interest.
- ▶ The new Ombudsman's activism may also determine the viability of the outlined system. One means of activism could be for the ombudsman himself to take cases of unlawful denial of access to information to court. This would both send a signal and have a major impact on the practice.

4 See the verdict of the Curia Pfv.IV.20.904/2021/5. and the decision of the Constitutional Court 3258/2022 (VI. 3.)

II. Absurd asset declaration system

The absurdity of the asset declaration system in Hungary is perhaps only matched by the issue of the disclosure of the casefile of informers of the communist secret services. In addition to Members of Parliament and other senior public officials, legislation requires hundreds of thousands of employees of public authorities and organizations using public money to make asset declarations at certain intervals. The problem is that, in the absence of any real control, the declarations of assets and liabilities that are made are generally not followed upon.

The current system does not provide real insight into the assets of declarants and does not allow for verification of the declarants' enrichment disproportionate to their legitimate income. This is partly due to the fact that only a negligible proportion of asset declarations are made public, since, with the exception of parliamentarians and most senior public officials, only the declarant's superiors have access to the declarations. In addition, even for public officials who are obliged to make public declarations, the spousal declarations remain secret.

Even more worrying is the complete lack of serious monitoring. In the case of parliamentarians, the Parliament's standing committee on immunity is empowered to check asset declarations. For other declarants, such as judges, municipal representatives and mayors, prosecutors, or employees of certain public bodies, there are various specific procedures to ensure verification. In practice, declarations are checked against the reality almost exclusively when they go public, and it is therefore clear that the declarant has not declared some of the real estate or other assets he or she controls. However, in the absence of real sanctions, even those who make an incomplete declaration are not at risk of serious consequences. It is sufficient to complete or clarify, but no meticulous accountability is ever enforced.

Even this is not the case for the hundreds of thousands of declarants, whose declaration does not go public, since in the lack of access, no outside party can initiate a verification of the content of the declaration or the actual assets and liabilities of the declarant. The legislation is so hypocritical that, under the legal provision applicable to Members of Parliament, the proceedings of the immunity committee may, in principle, be initiated by anyone, but only by a statement of fact relating to the "specific content of the declaration of assets and liabilities, which specifically identifies the part and content of the declaration of assets and liabilities that is the subject of the objection".⁵ This expectation is ridiculous with a view to the fact that spousal asset declarations of Members of Parliament are not public. It is not surprising that no one has been dismissed from their job in Hungary since 2013 for failing to comply with their declaration obligations.⁶

5 Section 94(4) of Act XXXVI of 2012 on the Parliament.

6 According to TI Hungary, Tibor Varga, a former judge in Kecskemét, lost his job as a judge in 2013 because he did not provide an acceptable explanation for the income he declared in his asset declaration. See Zsófia Gergely (HVG.hu): *We found the man who really failed in his asset declaration* [Megtaláltuk az embert, aki valóban elbukott a vagyonynyilatkozatán], 28th of March 2017 (<https://tinyurl.com/3ud2ftb9>)

In the absence of any real control, nothing is usually done with the asset declarations that are made.

The government also promised to renew the asset declaration system in spring 2022 as part of the rule of law conditionality process. The pledges raised high hopes, but in the end, not only did they fail to deliver a breakthrough, but the outcome was even worse than before. The government, disguised as a reform, replaced the asset declarations of public officials with a solution used in the European Parliament, which was even inferior to the one used in Hungary beforehand, and which was inadequate to control the assets of public officials. To give just one example: under the regime introduced in the summer of 2022, public officials were not required to declare their assets at all, but only their income, without specifying the exact amounts, only indicating the sums in broadly defined ranges.

The government eventually abandoned this “reform” and partially restored the previous asset declaration regime. However, the process has resulted in a somewhat less transparent solution than the original one. The old-new declaration of assets syllabus no longer requires the declaration of the various types of income of the declarer, as was the case in the previous declarations, with the indication of the specific amount. Under the latest “reform”, indication of incomes in broad ranges is sufficient and the declarant does not have to give details of the residential property he/she uses.⁷

As part of the rule of law conditionality process, the government has also set up the Integrity Authority, which has important tasks to perform in relation to asset declarations. More specifically, it is expected by the law to verify the asset declarations of senior public officials, with the exception of Members of Parliament, and to conduct so-called asset declaration investigation procedures. It can also initiate the declaration of assets procedure under the rules applicable to these officials.

The Integrity Authority is only entitled to initiate the declaration of assets procedure for Members of Parliament, so it has no powers of control or independent investigation in this area. Similar powers are granted to persons subject to a declaration of interests who do not hold a public office.

However, the mandate given to the Integrity Authority is incomplete for two reasons. Firstly, its powers are primarily limited to the control of EU funds, and its powers in relation to asset declarations are to be exercised “in the course of and to the extent necessary for the performance of its functions”, namely only in the context of the control of EU funds.

No one has been dismissed in Hungary since 2013 for failing to declare assets.

⁷ The amendments were introduced by Act XVIII of 2022, voted for on 19th of July 2022, and partially repealed by Act XXXI of 2022, voted for on 24th of October 2022.

A more serious problem is that the Integrity Authority is not exercising its duties relating to the control of asset declarations, despite the fact that the relevant legal requirements were entered into force in March 2023.⁸ The primary reason for this is presumably that the law does not clarify either the content of the audit or the nature of the asset declaration investigation procedure.

So far, therefore, no measures have been taken that would actually increase the reliability of the asset declaration system. Unless we consider the vague provision requiring parliamentarians to publish their asset declarations not only filled out by hand but also in a searchable and machine-readable format.⁹

What should be done?

Good quality rules

- ▶ In the area of asset declarations, too, there is a need for high-quality rules that serve the public good and that should be enforced by a public body with strong powers and commitment.

Electronic database for asset declarations

- ▶ To increase transparency, asset declarations should be completed electronically and then published in an electronically readable, searchable and comparable format.
- ▶ The latter could be achieved by uploading the data to the electronic database of declarations.
- ▶ In this database, all asset declarations should be made available, not only for parliamentarians and public officials, but also for all officials who are obliged to make a declaration.
- ▶ In the case of political leaders (e.g. Members of Parliament, members of the government, state secretaries, heads of public bodies), the assets of their relatives and of persons living in the same household as the declarant should also be disclosed.
- ▶ For the other persons obliged to make a declaration, only the material part of the declaration of the relative (person living in the same household as the declarant) would be public.

⁸ Paragraph 5 section (6)-(7) of Law XXVII of 2022 on the Control of the Use of European Union Budgetary Resources.

⁹ Section 94(2) of Law XXXVI of 2012 on the Parliament.

Full data content

- ▶ In order to be complete, the declaration should cover all income and all assets, not just taxable revenues and should include information on the source of the declared assets.
- ▶ It should include all positions held in social or economic organizations of the declarant (sports organizations, NGOs, political parties, companies, etc.).
- ▶ The scope of persons required to make a declaration of assets should be extended to include, among others, officials of municipalities both at settlement level and at county level, as well as employees of organizations using public funds and of organizations wholly or partly publicly owned.

Effective control

- ▶ To make the declaration system work, the conditions for effective control must be created.
- ▶ The obvious solution would be to task the tax administration to automatically compare asset declarations with tax declarations every year.
- ▶ If, as a result of the comparison, the enrichment seems disproportionate to the taxable revenue or to the wealth otherwise legally acquired and held, an investigation should be carried out to clarify the circumstances and reasons for the increase in wealth.
- ▶ In order to detect unexplained enrichment, the tax administration could order a wealth investigation at any time, even out of turn.
- ▶ The Integrity Authority should also be given a meaningful role in verifying asset declarations.

Strict criminal rules

- ▶ The Criminal Code should also be amended to create the necessarily deterrent and sufficiently severe sanctions.
- ▶ Breach of the obligation to make a declaration of assets, i.e.: making a false or untrue declaration of assets, and the entire failure to make a declaration of assets should be punishable by imprisonment and a ban from public office and from occupations involving public money.¹⁰

¹⁰ K-Monitor - Átlátszó.hu - Transparency International Hungary: *12 points of the civil asset declaration* [Civilek vagyonyilatkozati 12 pontja], 11th of December 2014 (<https://transparency.hu/hirek/civilek-vagyonyilatkozati-12-pontja/>).

III. Whistleblowers are not adequately protected

The Hungarian government is in serious, decades-long debt for taking the necessary measures to protect whistleblowers in a real and effective way, despite the fact that Hungary has adopted its third whistleblower protection act since 2009, and the latest legislation, currently in force, entered into force in the summer of 2023.

The first whistleblower protection act, drafted in 2009, seemed to be the most progressive, offering the strongest protection and the most help to those who brought suspicious cases to the attention of the authorities.¹¹ However, the first whistleblower protection law was never applied in practice, as the government did not ensure that an authority responsible for its implementation was established after 2010.¹²

As in the case for the second whistleblower protection act, applicable from 2014, there was no longer any problem in designating the authority responsible for enforcement, as all state and local authorities were obliged to implement the provisions.¹³ However, neither this law was applied in practice to protect citizens who reported abuse, mainly because regulation was too narrowly tailored. It offered no real protection for whistleblowers; it did not motivate anyone to report and there was no effective investigation procedure in the event if someone did decide to report an incident of wrongdoing.¹⁴

The failure of the first whistleblower protection act was greatly exemplified by the case of Mr András Horváth, who exposed to the public the systemic failures of the tax administration in the collection of VAT revenues, and who, in addition to some public smear campaign, was prosecuted.¹⁵ The uselessness of the second whistleblower protection act was also experienced by a client of TI Hungary, Mr Kálmán Szentesi. In his tax declarations, Mr Szentesi expressed his dissatisfaction with the systemic corruption that was damaging public funds. The tax administration took the criticism badly and did not understand, or at least did not like the humor, because they fined Mr Szentesi despite the fact that he had not damaged the exchequer by a single penny and even initiated criminal proceedings against him for tax withdrawal.¹⁶

11 See Act CLXIII of 2009 on the protection of fair process and related amendments.

12 Despite this undoubted omission, certain provisions of the Act CLXIII of 2009 could have been applied.

13 See Act CLXV of 2013 on complaints and public interest announcements.

14 See TI Hungary's comments and suggestions on the draft Whistleblower Protection Law 2013 (<https://tinyurl.com/yw9unrd2>).

15 See TI Hungary's position and communications on András Horváth (<https://transparency.hu/cimke/kozerdeku-bejelento/>).

16 In his 2015 tax declaration, Mr Kálmán Szentesi, in a formally unlawful manner, claimed back the personal income tax he had already paid by way of advance tax deduction by his employer, and the prosecution closed the criminal proceedings against him. The decision by the Székesfehérvár District and Investigating Prosecutor's Office's under filing No.B.526/2017/11. is in the possession of TI Hungary. See also *TI provides legal assistance to Kálmán Szentesi* [A TI jogi segítséget nyújt Szentesi Kálmánnak], 13th of March 2017 (<https://transparency.hu/hirek/a-ti-jogi-segitseget-nyujt-szentesi-kalmanak/>) and *TI condemns harassment of whistleblowers* [A TI elítéli a közérdekű bejelentők vegzálását], 18th of July 2017 (<https://transparency.hu/hirek/a-ti-eliteli-a-kozerdeku-bejelentok-vegزالasat/>).

With regard to these two examples, and even beyond, it can be said that Hungary has not developed a culture of whistleblower protection. It can be considered rather an act of distraction that the government issued a regulation of the so-called integrity management system of state authorities, which requires the government agencies to adopt by-laws on receiving and investigating reports of corruption.¹⁷ While such regulations have certainly been made, they have not improved the situation of whistleblower protection. This is evidenced by the fact that in the Völner case, the most serious judicial corruption scandal in decades, employees of the Ministry of Justice did not have the courage to report what they had observed to the integrity officer of the Ministry because they did not trust him.¹⁸

The adoption of the third whistleblower protection act, applicable from summer of 2023, follows the adoption of a whistleblower protection directive by the European Union in 2019.¹⁹ Member States have been given a deadline until December 2021 to adopt national legislation in line with EU requirements. Hungary was one of eight EU countries that missed this deadline, and the European Commission has launched infringement proceedings against the Hungarian government.²⁰ The incumbent whistleblower protection act was therefore drafted with considerable delay, and its quality is also questionable, as TI Hungary and its partner organizations have explained in a joint statement.²¹

Hungary has not developed a culture of whistleblower protection.

The new law is a definite improvement compared to previous solutions in that there are now tangible protection provisions and the bodies responsible for enforcing the rules have been designated. An important and positive development is that, in addition to central government, larger municipalities and various public authorities, all large companies will now be obliged to receive and investigate abuse reports. These can be made mainly by employees, but in case of companies, suppliers are also empowered to make reports, in particular in relation to abuses in the areas of public procurement, environmental protection and EU subsidies. Under the law, any citizen (not just employees of public authorities) can report EU legal infringements to a total of 21 public authorities.²²

17 Government Decree No. 50 of 2013 on the integrity management system of public administration bodies and the reception of lobbyists.

18 Attila Rovó (Telex.hu): “Children, I’ll show you what’s going to happen” - Ministry employees tell how humiliating the Völner-Schadl corruption was [„Gyerekek, mutatom, mi lesz” – minisztériumi dolgozók mesélnek arról, milyen megalázóan ment a Völner–Schadl-korrupció], 1st of February 2023 (<https://tinyurl.com/mr3tp6ej>).

19 Act XXV of 2023 on complaints, public interest announcements and on the rules for reporting abuses transposes EU Directive 2019/1937/EU.

20 On the protection of whistleblowers, see the European Commission Communication of 15th of February 2023 (https://ec.europa.eu/commission/presscorner/detail/hu/ip_23_703).

21 K-Monitor – Hungarian Civil Liberties Union - Transparency International Hungary: *New whistleblower protection bill: the government is not going beyond the minimum*. [Új bejelentővédelmi törvényjavaslat: a kormány a minimumot súrolja. Alulról.] 17th March 2023 (<https://tinyurl.com/3ktkvxz9>).

22 This, in addition to the Whistleblower Protection Act, is partly provided for in Government Decree 225 of 2023 on the designation of government bodies responsible for the establishment of an external whistleblowing system.

The most important change is that if a whistleblower gets into trouble, for example loses his job or is prosecuted for having accessed confidential information in order to blow the whistle, he or she will no longer have to prove that he or she suffered a retaliation because of the report he or she made. On the contrary, the burden of proof will be reversed, so that the former employer who dismissed the whistleblower will have to prove that the whistle blowing did not cause him or her to be dismissed. It is also welcome that for certain types of breach of confidentiality, no proceedings can be brought against the whistleblower.

Unfortunately, the list of negatives is much longer than the list of positives. Without wishing to be exhaustive, whistleblowers can still expect no meaningful support, and the rather anemic protection provisions do not apply in the event of disclosure of classified information. Furthermore, public employees who deal with really sensitive matters - such as judges, prosecutors, police officers, tax investigators - cannot expect protection if they speak out about the wrongdoing they have witnessed within their scope of actions.

The two biggest problems, however, are that the new whistleblower protection act does not provide for a mandatory investigation of reports, nor does it provide for any rules for an effective procedure, and it omits to protect whistleblowers who go to the press. Regarding the former, it is important to recall that state capture entails that state control bodies, with the

It is nonsense that the law only protects a person who makes a whistleblowing disclosure if he or she does not do so through a journalist.

exception of the courts, do not generally deal with corruption cases that are sensitive and delicate for the government. Therefore, the protection of whistleblowers, which is not very generous, will be in vain if government agencies, who are not very good at detecting really serious abuses, will be responsible for investigating new cases. And it is nonsense that the law only protects a whistleblower if he or she does not contact the media, whereas the typical form of publicity is through the press.

Even more worrying is the government's narrow-mindedness in transposing the directive. This is exemplified by the provision on state assistance to whistleblowers who are victims of retaliation despite a legal prohibition. Under this provision, the state will provide legal assistance and even a pro bono lawyer, but will compel the whistleblower to reimburse the lawyer's fees if the whistleblower's monthly net income exceeds HUF 42,750 (EUR 120). In other words, the state leaves whistleblowers on their own.

What should be done?

To support the effective practical application of the new whistleblower protection act, TI Hungary has produced a guide.²³ This will help both organizations that are obliged to enforce the rules and citizens who report abuse to understand the new provisions.

Treat the whistleblower as a partner, not as an enemy

- ▶ When reporting abuse or corruption, whistleblowers usually use information that only the authorities are entitled to obtain. Their behavior is therefore a formal breach of the law, as they obtain and disclose information protected by companies and public authorities, or disclose it to the authorities.
- ▶ But they do so for the common good, for the ethically correct purpose. By exposing corruption, whistleblowers are in effect taking on the role of the government.
- ▶ The minimum expectation is therefore that the government tackles citizens who take personal risks to combat abuse as partners and not as enemies.

Tolerated reach of confidentiality

- ▶ Effective whistleblower protection requirements include that a whistleblower should not be held liable for conduct that typically amounts to a breach of confidentiality, without which he or she cannot disclose the information about corruption that is necessary to make the report.

Active protection

- ▶ The state must also actively protect the whistleblower. It is not enough to prohibit by law the retaliation against a whistleblower, but the whistleblower who, despite the legal prohibition, suffers disadvantages because of his or her whistleblowing must be given legal, procedural and financial support and, if necessary, physical protection.

Mandatory investigation

- ▶ The authorities should be obliged to carry out a substantive and effective investigation of whistleblower reports.

²³ For more information, see TI Hungary: Guide to the operation and use of whistleblowing systems (<https://transparency.hu/tegy-a-korrupcio-ellen/bejelentovedelmi-utmutato/>).

Regulatory requirements

In order to ensure that the current whistleblower protection act meets the requirements outlined above, the following would be necessary:

- ▶ The whistleblower should be exempted from sanctions (e.g. misuse of classified information, breach of confidentiality, misuse of confidential information, etc.) for making a report in good faith.
- ▶ Specific rules should be developed for the handling of whistleblower reports, including the obligation to investigate reports published in the press and anonymous whistleblowing.
- ▶ Full protection should also be given to whistleblowers who address the public through the media.
- ▶ The state must provide active assistance and effective protection to a whistleblower who suffers harm despite the prohibition, for example by providing legal and procedural assistance, bearing the costs of such assistance and, in some cases, compensating the whistleblower for the harm suffered.

Stronger protection solutions

- ▶ The new whistleblower protection act, although is largely in line with the requirements of the relevant EU directive, does not meet requirements stated above.
- ▶ However, the Directive only sets out minimum standards, and it allows for stronger protection solutions.
- ▶ Hungary has not taken advantage of this opportunity and has taken a minimalist approach to transposing the Directive, so it is likely to be ineffective in practice in its current form.

IV. The lack of lobby regulation and the revolving door phenomenon

Lobbying - the pursuit of business and individual interests - is a legitimate activity which, if properly regulated and transparent, strengthens the professionalism and integrity of public decision-making. Lobbying should not necessarily be associated with undue influence and thus become synonymous with corruption. Hungary does not follow the path of transparency in lobbying either, although it is far from being alone in the European Union.

Previous attempts to make the process of lobbying transparent have proved ineffective in practice. In Hungary, the first comprehensive lobby regulation was adopted in 2006.²⁴ The

²⁴ See Act XLIX of 2006 on lobbying.

short-lived lobbying law required public authorities to make their lobbying contacts public but introduced only voluntary registration for lobbyists. Therefore, although violators were subject to fines, the voluntary nature of registration made it easy to circumvent the rules. It is no wonder that only 600 lobbyists registered, and the general experience was that the lobby law did not make lobbying any more transparent. The second Orbán government repealed the lobbying law in 2010 as one of its first decisions and has done nothing since then to create transparency and scrutiny of lobbying.

The lack of lobbying regulation is not compensated by the fact that the government has added some provisions on contacts with lobbyist to its decree on the so-called integrity management system, which has already been cited in the context of whistleblower protection. The Integrity Management Regulation, which is ineffective in practice, requires government officials to

The second Orbán government repealed the Lobbying Law in 2010 and ever since has done nothing to create transparency and control of lobbying.

inform their superiors in advance if they are going to meet a lobbyist. The notification should also include the subject matter of the meeting and officials are also expected to report on the outcome of the meeting. On the basis of the information, the head of the agency concerned may prohibit the lobby meeting from taking place or can approve the meeting but with the condition of the presence of a third party. The head of the agency is

also required to carry out an annual review of the lobbying relations of the organization under his/her control, to assess the risks and, as a result, to take appropriate measures. However, neither the information notes on lobbying relations, nor the management decisions taken on the basis of them, nor the annual reviews and risk assessments are made public. Nor is it known whether measures have been taken at all to address any risks that may have been identified. A further serious shortcoming of the regulation is that the provisions, which are not applied in practice, are binding only on the subordinates. In other words, even these minimum requirements do not apply to the lobbying activities of the heads of public bodies.

Related to lobbying is the so-called revolving door phenomenon, which is the passageway between public power and the business sector. The revolving door phenomenon can also be seen as an extreme form of unauthorized lobbying, where an official with knowledge of a policy area, or even a leading position in it, is hired by a business player active in a sector he or she previously controlled, usually in a senior position. Of course, the revolving door can also lead in the other direction, which means it can also take the form of a senior business leader moving into the top government position responsible for managing or supervising the sector with which he or she is familiar. In either case, there is a risk that the person, with the skills and connections acquired in the past, will not be pursuing public good but rather his or her own personal interests. It is therefore to be expected that, at least for senior public positions, there should be a prohibition preventing the direct and immediate exchange of influence acquired as a public leader for commercial advantages. This requirement is usually imposed in the form of labor law rules on employment restrictions.

In Hungary, the law imposes job restrictions for only a few heads of top agencies. These include the heads of the newly established Integrity Authority, the Supervisory Authority of Regulated Activities, the Public Utility Regulatory and Energy Office and the National Nuclear Energy Office.²⁵

A similar requirement does not apply generally to government jobs, although the government would be required by law to define the jobs, whose holders, when leaving government service, would not be permitted to work for a specified period of time at the company, which operated in the field previously under their control.²⁶ The government has not introduced the appropriate rules, despite the fact that it has been obliged to do so for five years.

What should be done?

Transparency in the lobbying system is closely linked to access to data of public interest. Indeed, data on the relationship between lobbyists and government officials are data of public interest. Making lobby information public can therefore be achieved by enforcing freedom of information requirements, which can be ensured by implementing our proposals for access to public interest data. In order to ensure transparency in lobbying and to eliminate the revolving door phenomenon, we propose the following measures:

Disclosure of contact details

- ▶ A new lobbying regulation should be developed, requiring the disclosure of certain information (number of contacts, dates, names of interlocutors, etc.) on the relationship between public decision-makers and lobbyists.

Mandatory lobby report

- ▶ Public decision-makers should be obliged to prepare a lobby report on the preparation of their decisions.
- ▶ This report should include a summary of lobbying contacts and other lobbying interests and should be annexed to the draft public policy decisions.
- ▶ In the absence of a lobby report, the public decision concerned cannot be validly adopted and implemented.

²⁵ The chairpersons and vice-chairpersons of the four authorities listed are subject to a one-year employment ban after the termination of their employment under the laws applicable to them (see: Act XXVII of 2022, Section 40(2), Act XXXII of 2021, Section 11(2), Act XXII of 2013, Section 10(2) and Act CXVI of 1996, Section 6/F(2)). The prohibition also extends to the acquisition of ownership in the company.

²⁶ Section 117 and section 281(4)23 of Act CXXV of 2018 on Government Administration.

Exploring the circumstances of proposals

- ▶ It is necessary to require that the proposers of draft legislation attach to the draft a detailed and public document, accessible to all, stating who initiated the legislation, the reasons for the legislation and the lobbying tools used to shape the content of the legislation.
- ▶ Legislation passed without such a report being made public is invalid.

Strict conflict of interest rules

- ▶ Strict conflict of interest rules should be introduced to prevent politicians, other public decision-makers and other leaders with control over public funds from taking undue advantage of their influence as public leaders by taking part in various social organizations.
- ▶ Therefore, public officials in office and senior officials of publicly funded companies should be banned from serving on the boards of professional associations, sports federations and other social organizations.

Job restrictions / cooling-off periods

- ▶ In order to eliminate the revolving door phenomenon, it should be regulated that public officials should not be allowed to take up employment with an organization operating in the area they previously supervised for a limited period after leaving their position.
- ▶ The duration of the restriction should also be proportionate to the nature of the public office previously held, the duration of the public occupation and the managerial mandate.
- ▶ More severe requirements than the general order should be imposed on public leaders.

V. The solution to campaign corruption is a public money injection

The financing of political parties' election campaigns is one of the longest-standing corruption risks in Hungary. The nature of campaign corruption has changed significantly over the years. Up to and including the 2010 Parliamentary elections, it was common for parties to spend more on their campaigns than the amount allowed by law. The limit on campaign spending was first regulated by law during the preparation to the 1998 parliamentary elections.²⁷ Under the provisions introduced then and in force up until the 2010 parliamentary elections, the state provided a total of HUF 100 million for campaign expenses, which parties and nominating organizations were allowed to top up by a further HUF 1 million for each candidate, drawing on their own resources. As there were 386 Members of Parliament until 2014, the parties were

²⁷ Act C of 1997, Section 91(1) and Section 92(1). See also the Parliament's Resolution 85 of 2001, Parliament's Resolution 89 of 2005 and Parliament's Resolution 3 of 2010.

able to spend essentially HUF 386 million on the campaign. In addition, the central budget of HUF 100 million was only a nominal amount when distributed among the parties running for office. However, the general experience already in the elections of 2000s was that the major parties that entered the Parliament significantly overspent. TI Hungary, in cooperation with other NGOs, carried out its first research in 2010 to map campaign spending.²⁸ According to the findings of the 2010 civil campaign monitor, Fidesz and the Hungarian Socialist Party 'MSZP' both spent at least HUF 1.2 billion, each, instead of the HUF 386 million allowed, so they exceeded the legal limit by threefold.

One of the reasons for the campaign corruption surrounding the 2010 and previous Parliamentary elections was that the rules did not take into account the realistic level of expenditure, as the limit of one million forints, which was set in 1998 and was too low, was still in force for the 2010 elections. The other reason was that neither the legislation nor the audit by the State Audit Office (SAO) has paid attention to the level of political parties' actual expenditures and how they raised the money for campaigns. The combination of deliberately bad rules and sloppy, lax controls are responsible for the corruption that results from the hypocritical system of campaign financing. Abuses have been primarily manifested in irregular funding. The solution to the corruption equation was presumably that parties, in possession of the mandate they had won, gave public contracts or other similar benefits to their funders.

The landscape for campaign corruption changed significantly in 2014. For the last three parliamentary elections, the framework for campaign financing was set by the rules adopted in 2013.²⁹ The upper limit for campaign spending was raised from HUF 1 million per candidate to HUF 5 million in 2014, and as a result of indexation, to almost HUF 6 million in 2022. At the same time, the number of Members of Parliament has been reduced to 199. The amount that parties and nominating organizations can spend on campaigning has thus increased to HUF 1 billion in 2014 and to nearly HUF 1.2 billion in 2022.³⁰ In addition, the state covers the majority of the expenditure from public funds, with campaign subsidy paid by the treasury partly to candidates, up to HUF 1 million per candidate, and partly to parties, depending on the number of candidates they run, in other words depending on the size of their party list.

In practice, the seemingly promising innovations have not only failed to eliminate abuses, but have taken campaign corruption to a new level. On the one hand, massive overspending prevailed, in spite of the vastly increased spending limit, but the structure of overspending has changed. On the other hand, there is the new element of bogus (sham) parties siphoning off billions of public money, and - with legal protection - the constant government propaganda

28 TI Hungary: *2010 elections* [2010 évi választások]. In addition to TI Hungary, Freedom House and the Eötvös Károly Institute also participated in the project "Hypocrisy 2010" (<https://transparency.hu/kozszektor/valasztasok-part-es-kampanyfinansirozas/2010-evi-valasztasok/>).

29 Act LXXXVII of 2013 on making the campaign expenses of the election of members of Parliament transparent.

30 To be precise, 1 billion 176 million 198 thousand forints, which means that the amount that could be spent on the campaign of one candidate was 5 million 914.5 thousand forints. For more information, see Hungarian State Treasury: Use of party support, 17th of November 2022 (<https://tinyurl.com/mrkb4fa5>).

that consumes billions of forints of public money.³¹ Thirdly, in the spirit of division of labor, a fictitious civil organization called the Civil Coalition Forum (CCF), which operates as an arm of Fidesz, and an extensive network of companies contributed billions to the campaigns of the governing parties during the 2022 and previous elections. Fidesz's successive electoral victories are also served by the fact that the agencies responsible for auditing campaign spending and party funds - primarily the State Audit Office and the State Treasury - deliberately look the other way when they should be taking action against irregularities that promote the interests of the governing parties. In contrast, the SAO applies the full force of the law to crack down on opposition initiatives that Fidesz considers dangerous.

The combination of deliberately bad quality rules and sloppy, permissive controls are responsible for the corruption that results from the hypocritical system of campaign financing.

TI Hungary and its partner organizations, such as Átlátszó.hu, K-Monitor and Political Capital, have published a number of research and analysis reports on the campaign finance malpractices and the consequences of the corruption risks. We found that in 2014, the entire campaign in favor of the governing Fidesz party cost close to HUF 4 billion. In other words, the Fidesz party campaign, the CCF campaign and the government's propaganda messages together exceeded the legal spending limit by fourfold.³² In the 2018 elections, we focused on the fake party phenomenon and published a research report detailing how HUF 3 billion of public money was wasted.³³ In the 2022 parliamentary election campaign, we looked at public advertising, poster campaigns by political parties and the government. We found that the government's HUF 3 billion poster campaign - again, including CCF and state propaganda spending - exceeded the legal limit by threefold, and the opposition's public advertising campaign by eightfold.³⁴

The state bears indefensible responsibility for the corruption that plagues election campaigns. This is partly due to poor regulation and partly due to practices that deliberately disregard regulations and the public good. The conduct of state audit bodies, above all the State Audit

31 See Section 142 of Act XXXVI of 2013 on electoral procedure, which, as amended in February 2018, excludes from campaigning, inter alia, "the activities of local governments and other state bodies in the course of their statutory duties". In fact, the amendment adapted the statutory provision to practice by providing a legal basis for the dissemination of government propaganda during the campaign period by interpreting the posters displayed by the government during the campaign period as information provided to the public.

32 TI Hungary: *Campaign Spending in Hungary: Total Eclipse* (<http://tinyurl.com/52fzswf5>).

33 TI Hungary: *This Hungaricum is costing Hungarians billions* [Milliárdokba kerül a magyaroknak ez a hungarikum] (https://transparency.hu/wp-content/uploads/2020/12/kamupartok_elszamolasa_tanulmany_2020.pdf).

34 K-Monitor - Political Capital - Transparency International Hungary: *Election campaign 2022: Fidesz may have violated the law, the government's poster campaign outnumbers the opposition by eight to one - A quick report by NGOs on the costs of the election poster campaign in March 2022* [Választási kampány 2022: törvényt sérthetett a Fidesz, nyolcszoros túlerőben a kormányoldal plakátkampánya az ellenzékkel szemben - Civil szervezetek gyorsjelentése a választási plakátkampány 2022. márciusi költségeiről] (<https://tinyurl.com/4n6vmydt>).

Office, deserves special attention. The SAO has long insisted that it acts in accordance with the law and that the law does not allow taking more intransigent action than it does in the area of scrutinising campaign spending.³⁵ It has thus consistently refused to compare real market data with the self-declarations of campaign expenditure made by the parties.

The ineffectiveness of SAO controls is only partially explained by weak and incomplete regulation. While there is no doubt that the law could provide for more serious auditing obligations, there is nothing to prevent the SAO President from ordering much more ambitious audits than is usual for party campaign reports. For example, an audit such as the one the opposition party Jobbik was subjected to in 2017. It turned out that the SAO can measure the market prices of public space advertising, can compare them with the party's accounting books, and even can determine whether the discount given to the party by the company using the advertising space constitutes as illegal subsidies.³⁶

The SAO has consistently refused to compare real market data with the self-declarations of campaign expenditure made by the parties.

The SAO went even further in 2023, when it found traces of campaign funds raised by pro-party fake civilians, and noticed what TI Hungary has been saying for ten years, that the fake civil society organization is actually running a party campaign. However, the breakthrough has been an odd one, as the State Audit Office has so far only taken strict action against political forces that are dangerous for Fidesz. According to the SAO, the Everybody's Hungary Movement, which helped the opposition candidate running for prime minister in the 2022 parliamentary elections, could face a payment of up to HUF 3 billion for raising money for the opposition's election campaign.³⁷ On the other hand, there is still no sign that the SAO is scrutinizing the activities of the CCF, which regularly sponsors poster campaigns in support of the government during elections.³⁸ Likewise, the SAO considers that a discount on the market price of posters in public places only constitutes illegal party support with a double repayment obligation in the case of Jobbik party, while the same behavior remains without consequences in the case of the

35 See the State Audit Office's response letter to TI Hungary, no.FT-0009/2014 (<https://tinyurl.com/y7mdt78m>), and TI Hungary's related announcement, 'The SAO will investigate campaign spending according to the law - we were afraid of this, 1st of August 2014' (<https://tinyurl.com/32ej3hsz>). We note that the State Audit Office in its Report No.1105 of May 2011 (Report on the audit of the accounting of funds spent on the 2010 parliamentary elections by nominating organizations and independent candidates) also highlighted that the legislation "did not ensure the conditions for full transparency of the origin and use of election campaign funds for the fourth parliamentary election cycle" and therefore the SAO "cannot fully fulfill its role of auditing the reliability of the accounts" (Report No. 1105 of May 2011 on the audit of the accounting of funds spent on the 2010 parliamentary elections by nominating organizations and independent candidates).

36 See draft report of the SAO No.EL-0275-060/2017 dated 6th of December 2017.

37 Gergely Miklós Nagy (24.hu): *Leaked: the SAO plans to fine the opposition more than three billion forints before the 2024 campaigns* [Kiszivárgott: hárommilliárd forintnál is nagyobb büntetést tervez az ÁSZ az ellenzéknek a 2024-es kampányok előtt], 20 June 2023 (<https://tinyurl.com/ms6m5uxw>).

38 See TI Hungary's open letter (<https://tinyurl.com/34mvpns5>) and the SAO's reply to this letter

governing Fidesz party. Even though TI Hungary's joint research with partner organizations has established that during the 2022 parliamentary election campaign the governing Fidesz party spent significantly more than the legal limit on their poster campaigns, there is no evidence that the SAO has initiated any proceedings in this regard.

What should be done?

Increased state campaign limit

- ▶ The parties (nominating organizations) should receive a large amount of state campaign funding paid from the budget, and the campaign spending limit should be increased to five times the current HUF 1.2 billion, because this reflects the real market conditions.

Prohibition of non-public funding

- ▶ Non-state funding must be banned from campaign financing. There is still a significantly lower risk of corruption if the state subsidizes party campaign spending with public money than if the money is raised by the parties themselves.

Openly and verified

- ▶ In addition to the significant “public money injection“, we propose to ensure that campaign funds are made public and their use is strictly controlled.

Public campaign account

- ▶ Parties and candidates would have to keep a public campaign account at the State Treasury, where all state campaign funds would be deposited.
- ▶ Campaign spending could only be funded from this account and only payments by bank transfer would be allowed, because they would be truly traceable, unlike cash payments, which are still allowed today.

Transparent advertising contracts

- ▶ The prices of both media advertising and public advertising (billboards) must be made public, and campaign advertising can be only contracted according to the prices set in advance by the service providers.

Time limit, propaganda stop

- ▶ Political campaigns and state-government propaganda should be banned outside the legally permitted campaign period (50 days before election day).

Restriction on fake civil organizations

- ▶ The outsourcing of electoral campaigning to fake civil organizations („CCF phenomenon“) should be limited by imposing a ban or by introducing a deduction from the campaign expenditure of the beneficiary party.

Blocking fake political parties

- ▶ The elimination of cash payments, the introduction of a public campaign account and strict controls will predictably end the fake political party phenomenon, which is already showing signs of fizzling out by 2022 due to the repayment obligation already introduced.

Confirmed verification

- ▶ The State Audit Office and the State Treasury must ensure compliance with the rules by means of enhanced control.
- ▶ The SAO and the Treasury must verify the campaign reports of the parties (nominating organizations) and the supporting contracts and invoices in detail and compare them with real market data, including the accounts of the suppliers who sell campaign services to the parties.

Uniform scope

- ▶ The proposed changes should be introduced for both parliamentary, local and European Parliament election campaigns.

The market should be brought back into the media system

From a captive press to a free publicity

The media law adopted after Fidesz came to power in 2010 gave the possibility for full government party control of public service media and the media authority, and the abolition of the former cross-ownership rules created a very strong ownership concentration. According to the Reporters Without Borders (RSF) global press freedom index, Hungary ranked 23rd in 2010 and 72nd in 2023, indicating the decay of the media system. In the following article, Gábor Polyák and Ágnes Urbán, leaders of the Mérték Media Monitor (Mérték Médiaelemző Műhely) and university professors, outline the direction that can reverse these trends and rebuild media freedom in Hungary when the rule of law is restored in the future.

The main problems of the Hungarian media system are well known. For media-consuming citizens, the strong presence of propaganda is the most visible sign, and it is no coincidence that watching a public service news program reminds many of the decades of communism. The very fact that many people refer to state media instead of public service is showing that the similarity in broadcasting practices before the regime change and today is so obvious: propagandists cheering for the Soviet Union (now Russia) and talking about the declining West operate in the same way in every era.

The presence of propaganda is only the surface. At the bottom, there have been several changes over the past long decade that have fundamentally transformed the Hungarian media system. It is worth highlighting the most important developments.

Occupied media system

One of these is the exceptionally high concentration of ownership in the media market. What is remarkable about the creation of the KESMA (the Hungarian acronym for “Central European Press and Media Foundation”) is not the fact how so many media companies have been brought under one ownership, but how this media conglomerate has been formed. Ten pro-government “investors” offered their companies to KESMA for free in November 2018. This would be absurd even if it had been done by a single owner, as it is completely against the logic of a market economy for someone to give away their own company. But with ten owners (including Árpád Habony, Mária Schmidt and Ádám Matolcsy) making the same decision on the same day, it is clear that the issue has been decided at a political level.

The pro-government media empire requires constant funding, and this essentially means channelling public money. In Hungary, the role of state advertising is extremely high, with the Hungarian state being by far the largest advertiser, which is quite unusual in a market economy.¹ This is only part of the problem, and the scale of the money spent is just as damaging as the market distorting effect. State advertising revenues are almost exclusively used by the pro-government media, with independent media companies receiving virtually no money from this source, which puts independent players at a clear competitive disadvantage.

Also is commonly known the complete lack of independence of the media authority, and it is a fact that all five members of the Media Council are government party delegates, elected for nine years. This has a decisive influence on the Media Council's fining practices, its seriousness in supervising public service media and the way in which it intervenes in the market, including through radio frequency tenders.

A similar problem is the total political occupation of public service media. The ruling party does not even want to create the semblance of political balance in the management of public media. As published audio recordings show,² the institution's decision-makers now see their role as supporting the ruling party rather than providing balanced information. Regarding the public media, it is particularly important to mention the role of the news agency (MTI), as well as the news blocks produced for radio stations, which are capable of running the same news block hour after hour on dozens of radio stations across the country. These tools are particularly problematic because they have been able to significantly reduce diversity without changing ownership, and are therefore "invisible" interventions of which many are unaware.

Ten "investors" close to the government offered the company they own to KESMA for free in November 2018. This would be absurd even if it had been done by a single owner.

The continued obstruction of journalists' work is also a serious problem. This takes many forms, including the frequent refusal to invite or allow independent editorial staff to access important events, the failure of public institutions to answer questions, the failure to respond to requests for public information, or the payment of substantial sums for requested documents. The most spectacular action against journalists so far was the so-called Pegasus scandal: it turned out that the Hungarian state had used secret service tools, an Israeli spy gun, to monitor several journalists and a media owner.

1 weCAN: *CANnual Report 2022* (<https://wecan.net/cannual-report/>).

2 Ákos Keller-Alánt (Szabad Európa): *Editorial instruction at public television: this institution does not support opposition coalition*, 12th of November 2020 (<https://www.szabadeuropa.hu/a/szerkesztoi-utasitas-a-koztevenel-ebben-az-intezmenyben-nem-az-ellenzeki-osszefogast-tamogatjak-mtva-fidesz/30940923.html>)

Broken - need to be repaired!

Without claiming to be exhaustive, the examples written above have presented the most important problems of the Hungarian media system, which were already well known to the interested public. A much more exciting question is what steps need to be taken to restore democratic publicity, entirely independent of when this will become a political reality. Some key areas for strengthening media freedom are discussed below.

Restoring market conditions

Media cross-ownership rules need to be rethought in order to prevent the creation or survival of large media empires like KESMA. The concentration of a significant part of the media market in one hand reduces diversity, regardless of ownership. It would be equally important - and this would require restraint on the part of future political actors - to reduce the number of media owners linked to political parties and to strengthen the role of professional investors in the Hungarian market. It is essential that the competition authority is given a prominent role in the evaluation of media acquisitions, and that it is not allowed to circumvent the competition market investigation by means of a government decree, as was the case with KESMA.

The elimination of hidden state subsidies, which in practice means a significant reduction in state advertising and the elimination of market distorting effects, is crucial to restoring market conditions. Ongoing government campaigns must end, but a review of campaign spending by state institutions and state-owned companies is also justified. There is a need for full transparency, and all public advertisers should continuously publish the amount spent on each

Media cross-ownership rules need to be rethought in order to prevent the creation or survival of large media empires like KESMA.

campaign at each media company and on digital platforms. This should be done even if the campaign is run by an agency specializing in media planning and buying, and it should not be possible to circumvent the reporting obligation by hiding behind a private company. For the sake of transparency, media companies should also be required to provide quarterly data, indicating exactly how much of each public advertiser's expenditure they have contributed. Moreover, they should

also disclose the amount of revenue they have generated from commercial advertising in the period concerned. If this degree of transparency is not undertaken by a media company, state advertisers would not be allowed to spend money there. This would allow the public to see which media outlets have a significant share of advertising revenues from the State and which ones are essentially market-based.

Establishing the independence of the public service media

The structure of the public service media must be fundamentally changed, and it is imperative to eliminate the institutional dichotomy that is today the biggest obstacle to transparency. According to the Media Law, the Duna Media Service Provider Non-profit Ltd. (Duna Médiaszolgáltató Nonprofit Zrt.) is currently the public service media, but in reality this institution does not carry out any substantive activities and its budget is negligible. Public media programs are produced and purchased by the Media Service Support and Asset Management Fund (MTVA), a trust fund over which no one and nothing exercises any meaningful control, and despite the HUF 127 billion budget planned for 2023, MTVA's management is essentially completely opaque.³ In order for public service media to be accountable to the public and not to the political authorities, and for transparency to prevail in its operations, this dual organizational structure must first be abolished. In a new public media system, editorial responsibility, decision-making and control over resources must be in one institution, and this must be designated as public service media in the media law.

In terms of transparency, it may also be necessary to require media companies to provide quarterly data, indicating exactly how much of each public advertiser's spending they have contributed.

In parallel with institutional change, safeguards to guarantee editorial independence need to be established. Solutions must be put in place to protect public media from political pressure, regardless of the composition of the government in power. This includes the appointment of the head of the institution, the establishment of a system of supervision and guarantees of funding, even by fixing the public service media budget for several years in advance. It is imperative to rethink the situation of the news agency, especially with regard to the current free service, which has essentially eliminated competition in the news agency market in Hungary.

Media supervision, the functioning of the media authority

The system of media supervision also needs to be rethought; currently the National Media and Infocommunications Authority (NMHH) and the Media Council operate in parallel, but are chaired by the same person. A new media supervision body should be created, with less room for maneuvers than at present, limited to the allocation of radio frequencies and the tasks arising from EU regulation. Decisions should be taken within a much clearer legal framework than at present, with minimal discretion.

In order to avoid political influence, the precise rules for setting up the new media supervision body should be elaborated. As a starting point, an open call for applications for the selection of members could be proposed. A panel of delegates from the parliamentary parties will be

³ See Law LXXXI of 2022 on the National Media and Infocommunications Authority's 2023 Unified Budget (<https://njt.hu/jogszabaly/2022-81-00-00>).

responsible for assessing the applications, but the election will also require recommendations from professional organizations. The term of office of members appointed by the President of the Republic is 4 years, but only half of the members' term of office expires at any one time on a rotating basis. The Board itself elects its President, who has additional powers only in relation to the operation of the Board.

Ensuring access to information

The practice whereby state leaders and state institutions themselves discriminate between journalists and editorial rooms who are loyal to and who are critical of the government must end. Invitations to public press events and press conferences should not be discriminatory, members of government should seek to be balanced when granting interview requests, and state institutions have a duty to respond to journalists' requests. In particular, it is important to restore the communication autonomy of public institutions. Any public institution (healthcare, education, culture, etc.) should have the autonomy to respond to requests from the press and, unlike the current system, where the heads of institutions should decide when and in what form to inform the public.

Data of public interest should be made easily accessible and searchable, creating transparency in the way the state operates and thus strengthening eroded public trust. Contrary to current practice, the confidentiality of pre-decisional data should be reduced to the minimum possible. The confidentiality of certain data (e.g. Paks2), which is provided for by specific laws, should be abolished and brought back into the general legal framework of data of public interest.

Strengthening media awareness

The current dysfunctional functioning of the media system cannot be remedied by changing the supply side alone. Today, media consumers are facing so many challenges - including the spread of fake news, the rise of polarization, the harmful effects of social media and digital tools - that it is necessary to prepare the demand side of the media. Developing children's media literacy needs to start in primary school, and the National Curriculum needs to be amended accordingly. Given that this challenge has been faced in many countries and that excellent programs have been launched, it is safe to build on the adaptation of international best practices in Hungary.

The lack of journalism education and research at university level contributes greatly to the fragility of the Hungarian media system. There is a need to re-launch university-level training and to build up research competencies that can monitor changes in the functioning of the media system and the public sphere.

No one and nothing has any meaningful control over MTVA, and despite the HUF 127 billion budget planned for 2023, its management is essentially completely opaque.

A constructive contribution to European regulation

The current Hungarian government is more of a brake on European processes than a facilitator. However, there are challenges that cannot be tackled at member state level, and a united European response is needed. Only through the European Union can the digital platforms lobby be tackled. In order for Hungary to play its full part in the regulatory process, it needs to build up an appropriate knowledge base and adopt a constructive approach.

A new media supervision body should be set up, with less room for maneuvers than at present, limited to the allocation of radio frequencies and the tasks arising from EU regulation.

Today, independent media research has no real institutional background, with only a few government-affiliated research institutes and think tanks having sufficient resources to carry out ongoing research. There is a permanent lack of resources for independent researchers and a significant number of media researchers have left Hungary. There is an urgent need to attract back home internationally competitive researchers and to create an independent research infrastructure.

Given the developments of recent years, it is particularly important for Hungary to regain the trust of European policy makers and to actively contribute to addressing regulatory challenges. Relevant experience has been accumulated in various areas, such as the spread of disinformation or the identification of market distorting effects of state advertising. Building on this, Hungary can now be part of the search not only for a problem but also for a solution.

The self-limiting behavior of the political elite

These elements have shown the need for changes of a primarily institutional nature, but there is an underlying condition that is more cultural. Whatever government begins to dismantle Fidesz's media system, it can only be driven by the desire to build a media free and diverse media system. Even if the logic of power dictates otherwise, a prospective new government must work in the interests of a democratic public.

It is important that the future political elite does not continue with the propaganda techniques developed by Fidesz. Normalcy must be restored in everyday life, and the new media system must be built with the intention of dialogue rather than hate speech and polarization. A new pro-government business circle cannot build fake news factories; politicians cannot spread disinformation instead of information. Even if there is the know-how, it is not possible to set up and run a political influencer network with public money. Politicians must not discriminate against editorial offices because they are critical, they must be at the disposal of editorial offices and journalists who respect professional rules. Municipal media cannot impose themselves on the public sphere of a municipality, and there is a need to create diversity at local level, taking into account economies of scale.

If someone just wants to reverse the media relations and mould the system on their own image, we will be no further forward. A new government must respect the democratic rules of the game and must necessarily put the public interest before private interests. The media system must work not in the interests of the governing party of the day, but in the interests of Hungarian citizens.

The direction in which to go

We do not yet know who, when and with what authority will be able to start the transformation of the media system. Given the two-thirds majority of the media law, it may well be that only half-solutions and compromises will be possible to reach in some areas. However, this should not affect the objective, which is to dismantle Fidesz's centralized media and create a democratic public sphere.

A future new media system can only work on the basis of market logic, and the role of the state must be reduced in many areas. In media ownership and financing, market mechanisms must be clearly re-established, preferably with a strong presence of professional investors. Learning from the experience of recent years, certain institutions - especially the media authority and public service media - must be protected from the possibility of political influence. Independence safeguards must be established. There are areas in which the state should increase its presence, such as developing media awareness or combating disinformation, but this should only be done through very high level public policy making, building heavily on international experience.

If someone just wants to reverse the media relations and mould the system on their own image, we will be no further forward.

It was no coincidence that building the Orbán regime started with the adoption of the media law in 2010, and its domination of the media system has been a foot-stone of the system ever since. When the time comes to rebuild the rule of law, the restoration of democratic publicity and the transformation of the regulatory environment and institutions of the media must begin immediately. How this can be done by what concrete tools and with what legal solutions cannot be determined without knowing the situation at the time. However, it is already clear what direction we are supposed to move in.

The road from cronyism money distribution to transparent and efficient spending is bumpy

Distorted and biased public procurement system and allocation of EU funds

*The regulatory framework for public procurement is of a high standard, but the practice and monitoring of public procurement are so far below expectations that it has become synonymous with a public money suction pump. And the situation is no better when it comes to the use of EU funds, according to Judit Zeisler, senior project manager and public procurement expert at TI Hungary.**

Currently, the Hungarian budget, which is already facing a deficit, has no access to around €30 billion of EU funds, more than ten thousand billion forints, after the Council of the European Union temporarily suspended funding in 2022 to protect the EU budget from systemic problems related to corruption and the rule of law.¹ Among them, the decision was made to freeze the full allocation of the Recovery and Resilience Facility (RRF) and €13.3 billion of cohesion funds. As of October 2023, only around €8.4 billion in agricultural aid and money rolled over from the previous financial cycle, which ended at the end of 2020, will continue to come in.

In order to still have access to this insanely huge amount of money, the government has committed to 27 conditions, known as super-milestones, and four broad horizontal conditions to be imposed by the European Commission. According to the Council's proposal that serves as a basis for the implementation decision taken by the Commission, one third of the measures relate to restoring meaningful competition, reducing systemic corruption in public procurement and strengthening the control system for EU funds.²

However, there seem to have been forced, bureaucratic solutions to meet the milestones in Hungary over the past year. TI Hungary's assessment - carried out jointly with five civil organizations - found that the government had not taken adequate steps to fully address the raised rule of law and human rights concerns by the end of the first quarter of 2023, and thus

* Contributed by *Tünde Mészáros, Gabriella Nagy, Judit Zegnál* and an anonymous expert.

1 Council implementing decision approving the assessment of Hungary's recovery and resilience building plan (<https://tinyurl.com/3584tnkj>).

2 See the annex to the European Commission decision approving the Council's assessment of Hungary's recovery and resilience building plan (https://commission.europa.eu/system/files/2022-12/COM_2022_686_1_annexe_EN.pdf).

failed to meet most of the conditions for access to EU funds.³ The lacks in the implementation of reforms are also highlighted in the Commission's Annual Rule of Law Report on Hungary.⁴ In this study, we look at what is sufficient and where further reforms are needed to ensure public procurement and truly transparent use of EU funds.

Looking beyond cohesion funding

The EU conditionality procedure against Hungary is not only blocking billions of euros that are supposed to be available from the Structural and Investment Funds and the Recovery and Resilience Facility (RRF) for Hungarian funding programs, but restrictions have also been put in place for thematic funding programs under the direct management of EU executive agencies. Such programs include, for example, the Horizon Europe research and innovation fund (which has a budget of almost €100 billion between 2021 and 2027) and Erasmus+, which supports professor and student exchange programs. Under the procedure, access to these funds have been blocked for formerly state-owned universities that the government reorganized into a foundation structure in the past few years, as well as for companies and research institutes linked to them. Here, the EU funding was suspended on the ground that the financing of these institutions and the selection of their management is not transparent and therefore the proper use of EU money is not guaranteed.

Since in Hungary most of the money from centrally-managed thematic EU funds has so far been granted to higher education institutions and their networks, the conditionality procedure will most likely thwart the government's expectation that Hungarian entities should "bring home" at least €7 billion, which accounts for 2.18%⁵ of the total budget of the thematic EU funds.⁶ The failure of this plan will not only cause financial damage; it will deprive the blocked entities – among them some of Hungary's most prestigious universities – of the opportunity to gradually become accustomed to highly competitive funding programs directly managed by EU executive agencies. Under these programs, there are no geographical quotas or "country envelopes"; the projects are competing at EU level and only the best ones receive funding.

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- 3 Amnesty International Hungary - Eötvös Károly Institute - Hungarian Helsinki Committee - K-Monitor - Society for Civil Liberties - Transparency International Hungary: *Assessment of compliance by Hungary with conditions to access European Union funds*, April 2023 (<https://tinyurl.com/3hhfkx3n>)
 - 4 See the European Commission's Rule of Law Report 2023 (<https://tinyurl.com/zwckmz6k>)
 - 5 Márton Orosz (Portfolio.hu): *Direct EU funding should arrive! Hungarian companies can bring in up to €7 billion [Érkezzenek a közvetlen EU-s források! 7 milliárd eurót is elhozhatnak a magyar cégek]*, 10th of January 2023 (<https://tinyurl.com/4ahbkwmv>).
 - 6 For more information, see the European Commission's funding and tenders portal (<https://tinyurl.com/yc69hdmt>).

Is €7 billion worth the effort when much larger sums are earmarked for Hungary from the EU's cohesion envelop? The short answer is: absolutely. The UK's exit from the EU also meant that the bloc lost one of its biggest net contributors (a member state paying more into the EU budget than it takes out), and the rest of the rich countries are not willing to dig deeper into their pockets to cover the shortfall in the 2021-2027 EU budget. This was reflected in the Commission's 2019 budget proposal, which showed a reduction in the size and economic weight of the EU budget relative to Gross National Income (GNI) compared to the 2014-2020 budget: from 1.16% to 1.114%.

The "frugal" budget was later supplemented by the recovery fund (RRF) to alleviate the economic damage caused by the COVID-19 pandemic. It has total budget of 750 billion euros, composed of two parts: 390 billion euros in non-repayable grants and 360 billion euros in loans (the funds are financed by a loan taken out by the Commission). However, the RRF is a one-time source that is not part of the regular EU budget, and "traditional" (cohesion) EU funding that national governments spend through the countries' operational programs are expected to gradually shrink and give way to more competitive forms of funding.⁷ Stronger participation by Hungarian entities in the EU's current thematic funding programs would help them prepare for this transition.

Unprecedented relapse

It is essential to attract EU funding, as fresh support is increasingly lacking in the Hungarian economy. In the past ten years, EU transfers have accounted for 3-4% of Hungary's GDP, and with the RRF this year this could be even higher. EU funds have also had a significant impact on public procurement in previous years, accounting for around 30-40 percent of total procurement (Figure 1). This is why the withholding of funds has led to an unprecedented relapse in the field of public procurement: in the first half of 2023, the final value of all procedures was HUF 1304 billion, a drop in value of around 50 percent compared to the same period last year.

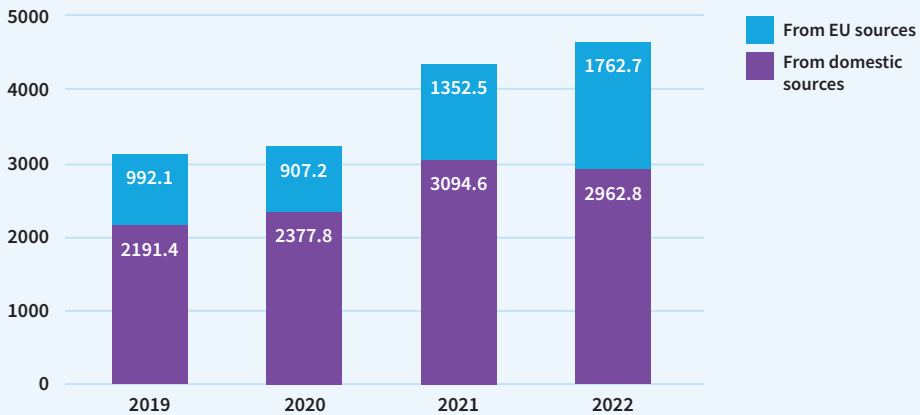
In particular, the volume of construction tenders, traditionally the largest category, relapsed significantly, by around a fifth compared to the same period last year, from HUF 1954 billion to HUF 411 billion,⁸ after hundreds of developments were suspended or cancelled by the government's announced investment freeze in several phases.⁹

7 *The impact of the 2021-27 EU budget on the Hungarian economy* [A 2021-2027-es EU költségvetés hatása a magyar gazdaságra], Economy and Competitiveness Research Institute, 2020/2 (<https://tinyurl.com/yc4j7vs5>).

8 The Public Procurement Authority's 2023 1st semester Flash Report (<https://kozbeszerzes.hu/media/documents/gyorsjelent-es-2023-i-felev.pdf>)

9 Tibor Lengyel (Hvg.hu): *Updated list of cancelled public investments: bridges, sports halls, roads, schools* [Itt a megszüntetett állami beruházások frissített listája: hidak, sportcsarnokok, utak, iskolák], 6th June 2023 (<https://tinyurl.com/ahv8f9xj>).

Figure 1: The Amount of public procurement contracts by type of financing source (HUF billion)



Source: Integrity Authority

Lack of competition and transparency in public procurement

One easily identifiable and long criticized feature of the domestic public procurement market is the high proportion of single-bid tenders, where the bidder has virtually no competitors. Hungary has long been one of the worst performers among Member States in the area of large value public procurement above the so-called EU threshold. In 2021, in 40% of the public procurement contracts examined only one company made a bid.¹⁰ This ranks us as the third worst position among Member States.

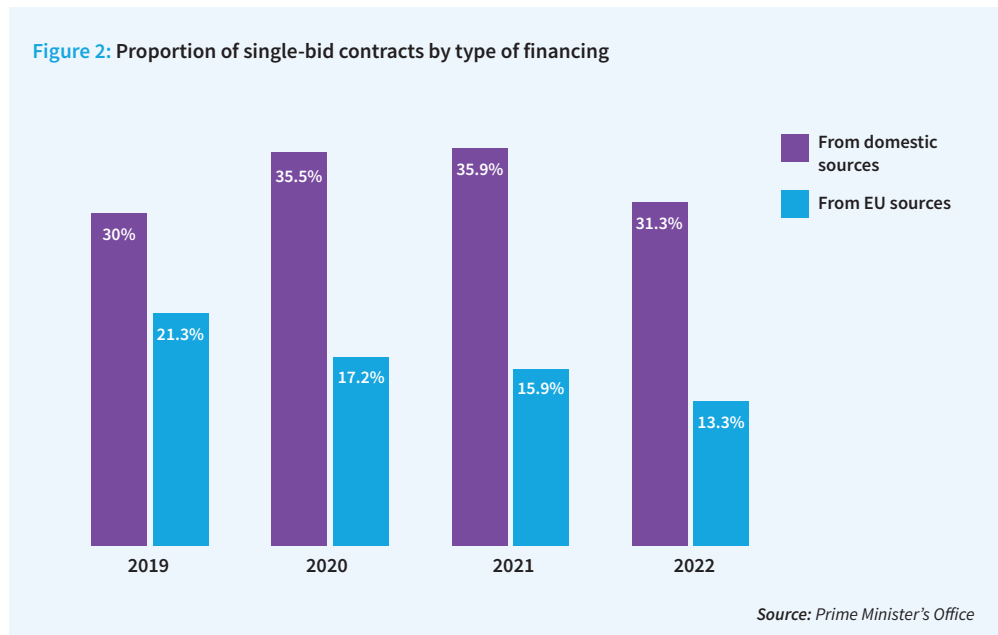
Although, according to the Prime Minister's Office, the ratio of single-bid contracts has fallen to 33% in 2022, several of the reforms to be completed in the conditionality procedure are aimed at reducing these procedures in the longer term.¹¹ By March 2026, the government must cut the share of single-bid tenders in the overall public procurement market, including domestic and EU-funded procurement, to 15 percent. This is currently more challenging for the former, where the share of single-bid tenders needs to be progressively halved, which was around 31.3 percent in 2022 (Figure 2). Meanwhile, for EU-funded procurement, where the award of a contract is often conditional on several competing bids, the correction process starts from a much more favorable level and the target was already reached in 2022. The more extensive control system for the use of EU funds is assumed to have played a major role in this, which

¹⁰ See Single Market Scoreboard indicator 1 on public procurement (<https://tinyurl.com/2p9nfjdd>).

¹¹ Prime Minister's Office, Deputy State Secretariat for Public Procurement Oversight: *Analysis on the development of single-bid public procurement* [Elemzés az egyajánlatos közbeszerzések alakulásáról], 2018-2022 (<http://ek.r.gov.hu/portal/hirek/8798091965784>).

in turn leads to the conclusion that more detailed forms of control may be useful for domestic use of funds.¹² There are also several recent legislative incentives for contracting authorities to increase the number of bidders, such as the obligation to apply preventive measures, such as prior market consultation, in the most affected areas.¹³

Figure 2: Proportion of single-bid contracts by type of financing



However, the high number of single-bid tenders is far from being the only problem in the public procurement market. Market concentration, the above-average performance of some bidders is also a major criticism in the conditionality procedure. Pro-government players have long established themselves in the public procurement market, often through pressure and a tailor-made regulatory framework.¹⁴ TI Hungary's Tender Champion project and website analyzed a total of HUF 8.9 thousand billion worth of public procurement contracts conducted between 2018 and 2020.¹⁵ László Szíjj and Lőrinc Mészáros' duo stands out by far among the owners of the winning companies, who through their companies accounted for 10 and 7 percent of the total volume of public procurement in the period under review, mostly through construction

12 See the complementary report of the Anti-Corruption Task Force on the draft of Medium-Term National Anti-Corruption Strategy 2023-2025 (<https://tinyurl.com/bdeap7mk>).

13 For more information, see Government Decision no.1118/2023 (31.III.) on the Action Plan on measures to increase the level of competition in public procurement (2023-2026) (<https://tinyurl.com/3snwmr8m>).

14 HVG.hu: *One by one, the companies blackmailed by the NCS go public* [Egymás után fordulnak a nyilvánosságához a NER által megszarolt cégek], 31st of May 2023 (<https://tinyurl.com/48pyhdx8>).

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

projects. The honored positions led directly to overpriced, poorly implemented developments in many sectors, including construction.¹⁶ Although overpricing has recently been introduced as a reason for inefficiency in public procurement legislation, allowing contracting authorities to reject bids that are considered disproportionately high; however there is no prospect of more radical reforms to counterbalance the surcharge on prices from NCS.¹⁷

In some sectors, such as communications, IT and other services procurement, framework agreements with central purchasing bodies such as the National Communications Agency and the Digital Public Procurement Agency have helped pro-government companies to become market leaders. Although the Commission itself has raised concerns about the restrictive use of framework agreements, in practice the remedies proposed by the government do not address the rethinking of framework agreements and the role of central purchasing bodies.¹⁸

At the same time, within the frame of the EU milestones, at least the assessment of the “damage caused” has gotten started. A government study on the performance measurement 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. Among its recommendations, the related Working Group highlighted that “further analysis is also needed on the activities of central purchasing bodies, and in particular the National Communications Office, in the light of the available data and the replies to the questionnaire, which reveals the lack of a broad competitive environment and insufficient thoroughness in the preparation of procedures for framework agreements.”¹⁹

Furthermore, the domestic measures taken in response to the conditionality procedure do not address the fact that framework agreements often exceed the 4-year maximum duration of the Public Procurement Law. Although the legislation allows for extensions in particularly justified cases, the contracting authorities often fail to provide mandatory explanations in such cases, as K-Monitor’s analysis has shown.²⁰

16 András Kósa (Szabad Európa): *Duna Aszfalt can build the road tunnel at Sopron much more expensively than planned* [A tervezettnél sokkal drágábban építheti meg Sopronnál a közúti alagutat a Duna Aszfalt], 14 July 2023 (<https://tinyurl.com/muhpf4fy>)

17 See Paragraph 75 section (2) point (h) and section (7) of Law CXLIII of 2015.

18 See European Commission’s proposal for an implementing decision on measures to safeguard the EU budget against breaches of the rule of law in Hungary, 18th of September 2022 (<https://tinyurl.com/y59a8jza>).

19 Prime Minister’s Office, Deputy State Secretariat for Public Procurement Oversight: *Results of the Performance Measurement Framework for the Evaluation of the Efficiency and Cost-effectiveness of Public Procurement* [A közbeszerzések hatékonyságát és költséghatékonyágát értékelő teljesítménymérési keretrendszer eredményei], 2019-2022 (<https://ekr.gov.hu/portal/hirek/8798092096856>).

20 K-blog: *Public Procurement measures proposed within the conditionality mechanism won’t fix systemic flaws*, 17th of October 2022. (<https://tinyurl.com/yx2khpda>).

Conflict of interests

A complex set of tools is needed to restore competition in the market. One of these complex areas of intervention is the control of conflicts of interest.²¹ On TI Hungary's Tender Champion webpage, we have identified 118 owners who had previously or at the time of the analysis held public positions of power. Some final owners may have held several such positions at the same time. For example, József Vida, former CEO of Savings Bank (Takarékbank) and member of Lőrinc Mészáros' circle, held 9 different titles of public power, while his companies won public procurement contracts worth around HUF 2.4 billion between 2018 and 2020.

Particularly interesting are cases where the organizations awarding procedures to a given firm and the organization employing the company owner are hierarchically related or even identical. However, under the current rules, conflicts of interest cannot always be clearly identified. As part of the government's action plan, the Council of the Public Procurement Authority has published a guide on how to identify and control conflicts of interest at different stages of the procedure.²² The guide suggests that it would be useful for contracting authorities themselves to carry out regular background checks on tenderers, but the current legislation provides for this as an option rather than an obligation. In addition, although the conflict of interest rules have recently been revised, the law still does not exclude family members or senior officials who do not live in the same household as tenderers. An important step in identifying public officials with a conflict of interest would be to ensure the accurate declaration of economic interests in asset declarations and to regulate more strictly the revolving door phenomenon, the lack of which was highlighted in the EU's annual report on the rule of law in Hungary.²³

It is essential to attract EU funding, as fresh support is increasingly lacking in the Hungarian economy.

However, competition and transparency in the award of public contracts is further undermined by the systematic and abusive exclusion of major tenders from traditional public procurement procedures by the government. For example, in the case of procurements exempted under the pretext of the coronavirus epidemic²⁴, the government has made public procurements worth

21 Paragraph 25 of Law CXLIII of 2015 on Public Procurement excludes the managers and owners of contracting authorities involved in the procedure, certain public dignitaries and their relatives living in the same household.

22 See the Council of the Public Procurement Authority's guidance on conflicts of interest, 25th of May 2023 (<https://tinyurl.com/4dj56rvk>).

23 See footnote no.4

24 Government Decree No.48/2020 (19.III.) on the prevention and control of the epidemic included the rules on public procurement procedures for the protection against the coronavirus. This Government Decree was repealed after the end of the emergency - however, the specific procurement rules contained therein, based on the more general definition of a health emergency, are still applicable under Article 232/E of Law CLIV of 1997, which should also be revised.

HUF 722 billion.²⁵ Among other things, it spent some 300 billion forints on 17,000 useless ventilators that have been sitting and collecting dust in warehouses ever since. The government decree authorizing the purchase of such equipment has exempted the acceleration of the procedure in this case too, but transparency should still be ensured. Despite this, the Ministry of Foreign Affairs and Trade, which made the majority of the purchases, has since destroyed the documents relating to the transaction, as revealed by a public interest information request initiated by Transparency International Hungary.²⁶

Another way to avoid publicity is to exempt the procedure from public procurement rules on the grounds of national security.²⁷ In these cases, however, the reason for applying the exemption is often questionable. It is difficult to explain, for example, why secrecy was necessary for the construction of the Money Museum²⁸ or 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 throw a lifebelt to pro-government businessmen in difficulty.²⁹

Meanwhile, there is no transparency on which companies are eligible to participate in projects exempted from public procurement. It may bring a change in the case of public procurement exempted on grounds of national security, the fact that, following an EU infringement procedure³⁰, this exemption category has been narrowed down in line with EU law, which means that in principle, from 2023, this exemption can only be invoked in cases defined in EU legislation.³¹

The government systematically and abusively excludes major tenders from traditional public procurement procedures.

The excessive use of concession contracts has also led to extreme concentration in certain segments. In these cases, the selection of the contractor was in practice a disguised public

25 Csaba Segesvári (Átlátszó.hu): *722 billion forints of public money spent by the government under COVID without public procurement* [722 milliárd forint közpénzt költött el a kormány a Covid alatt közbeszerzés nélkül], 15th of June 2023 (<https://tinyurl.com/3snxpv22>).

26 Zsolt Papp (Népszava.hu): *Suspicious foreign affairs procedure: after 20 months the papers related to the ventilator business were shredded* [Kamugyanús külügyi eljárás: 20 hónap után ledarálták a lélegeztetőgép-bizniszhez köthető papírokat], 22nd of May 2023 (<https://tinyurl.com/ysaepmxx>).

27 See Paragraph 9 sections (1) and (2) of Law CXLIII of 2015.

28 Gabriella Nagy (Korrupció.hvgblog.hu): *Can a furniture purchase affect the security of the country?* [Befolyásolhatja-e az ország biztonságát egy bútórvásárlás?], 21st of September 2021 (<https://tinyurl.com/2hm4zreb>).

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

30 For more information, see the main decisions in the European Commission's infringement package of December 2021 (<https://tinyurl.com/37uh34zn>).

31 See Paragraph 9 section (1) subpoint (bb) of Law CXLIII of 2015.

procurement procedure, but in practice the tender was designed to play off the whole of 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 restrictive of competition, and the detailed justification is not made public. TI Hungary has launched and won lawsuits to find out about them³², and the European Commission is investigating both cases at our initiative.³³

Counter-interested control bodies

For a long time, the use of EU funds in Hungary has been characterized by the fact that the speedy spending overrides all other criteria, including territorial equity, competitiveness, sustainability and return on investment, putting public administration under absorption pressure.³⁴ The justifications of objectives, project design and monitoring have become secondary, as the Hungarian authorities have no interest in restraining the anomalies.³⁵

Hungary regularly leads the statistics of the EU's Anti-Fraud Office (OLAF) on the irregularities detected, as an indication of the inappropriate use of funds. In 2022, for example, the organization highlighted 15 cases of suspected fraud in Hungary (we are leaders among all Member States). The country also topped other statistics, such as those on irregularities detected by OLAF in the areas of European Structural and Investment Funds and Agricultural and Rural Development Funds for the period 2018-2022. In this area, 18 irregularities were detected, representing 0.53% of total funds.³⁶

The excessive use of concession contracts has led to extreme concentration in certain segments.

The Hungarian practice shows that the state - i.e taxpayers - often simply repays the amount in question, while the real parties involved are not held accountable. OLAF cannot bring charges, while the judiciary is less effective in Hungary than in other Member States. As an EU institution, the European Public Prosecutor's Office would have the right to investigate directly, but Hungary is not a member of that body. In 2018, OLAF claimed some 13 billion forints (€43.7 million) from Elios Zrt., a company which belongs to the interests of the son-in-law of Prime Minister, István Tiborcz, for irregularities related to municipal contracts, which the

32 TI Hungary: *We won the waste concession case in the second round* [Másodfokon is nyertünk a hulladékconcesszió ügyében] (<https://tinyurl.com/mr7apffw>) and We are publishing the background calculations of the 35-year highway concession [Közvetésszük a 35 éves sztrádaconcesszió háttérszámításait] (<https://tinyurl.com/3c2sjdyk>).

33 Tamás Wiedemann (Szabad Európa), *In addition to the highway and waste concession, the European Commission is also investigating the central bank* [Az autópálya- és hulladékconcesszió mellett a jegybankot is vizsgálja az Európai Bizottság], 17th of April 2023 (<https://tinyurl.com/yr6syenu>).

34 Gergő Medve-Bálint - József Péter Martin - Gabriella Nagy: *Conflicting consequences? The utilization of EU funds in Hungary* [Célellentétes következmények? Az uniós források hasznosulása Magyarországon], Social Report, 2022 (<https://tinyurl.com/2y8k6jyw>).

35 TI Hungary: *The corruption risk of EU funds in Hungary* [Az uniós források korrupciós kockázata Magyarországon], October 2015 (<https://tinyurl.com/3yhxecxv>).

36 See OLAF report 2022 (<https://tinyurl.com/mykts6w>).

government simply removed from the EU accounts package and then closed the investigation without charges.³⁷ Within the Bridge to Work program, also investigated by OLAF, the National Roma Self-Government led by Flórián Farkas was also exempted from actually repaying the money lost in the program, as the state took over the reimbursement of the majority of the HUF 1.6 billion from the organization, while the investigation was quietly closed.³⁸

The conditionality mechanism has so far not led to any major changes in the institutions that are supposed to fight corruption effectively. At the time of writing this study, there was no public information on how much more effective the control system has become through cooperation with OLAF, the use of the EU-developed Arachne risk management system and the institutional independence of the Directorate-General for Auditing European Aid. There are also no publicly published results on the functioning of the recently established Directorate for Internal Control and Integrity, which has been given the mandate to assess and manage potential conflict of interest situations in relation to projects supported by EU funds for the 2014-2020 and 2021-2027 programming periods of the EU budget.³⁹

The most significant step forward is the creation of the Integrity Authority, but the effectiveness of its functioning depends largely on the willingness of other long-standing, non-independent control institutions to cooperate.⁴⁰ The protection of public funds remains, or would remain, essentially the responsibility of the existing public bodies. The use of the conditional mode is justified in several cases, such as when, after the police, the prosecutor's office and the court rejected the Integrity Authority's motion to investigate the fact that three companies - Strabag Általános Építő Kft., KIFÜ-KAR Zrt. and VILL-KORR Hungária Villamosipari Kft. - had won almost all public contracts in Győr without competition.⁴¹ Furthermore, despite TI Hungary's report on the financing of a canopy walkway project, which was notorious in the Hungarian press for its unjustified financing, the Hungarian authorities have not yet investigated it, while OLAF has already started to investigate the case.⁴²

For a long time, the use of EU funds in Hungary has been characterized by the fact that speedy spending overrides all other considerations.

37 Miklós Hargitai (Népszava.hu): *This is how they save Tiborc: we would rather not ask for EU support* [Így mentik Tiborcot: inkább nem kérjük az EU-támogatást], 12th of February 2019 (<https://tinyurl.com/4b92zcvb>).

38 Csaba László Horváth (24.hu): *The investigation into Flórián Farkas' scandalous Roma program was quietly closed* [Szép csendben megszüntették a nyomozást Farkas Flórián botrányos roma programja ügyében], 12th of December 2022 (<https://tinyurl.com/mr43ph7a>).

39 See Government Decree no.373/2022 (IX. 30.) on the basic rules and responsible institutions for the implementation of the Hungary Recovery and Resilience Plan.

40 Contribution of Hungarian civil organizations to the European Commission's Rule of Law Report, January 2023. (<https://tinyurl.com/mr35zmvz>).

41 Eszter Katus (Átlátszó.hu): *The Integrity Authority intervened in vain, the Győr tender king case is in the sink* [Hiába lépett fel az Integritás Hatóság, a sülyesztöbbe került a győri tenderkirály-ügy], 24th of August 2023 (<https://tinyurl.com/3yddrv8a>).

42 Péter Úrfi (444.hu): *OLAF launches investigation into the famous canopy walk* [Vizsgálatot indít az OLAF a híres lombkoronasétány miatt], 17th of September 2023 (<https://tinyurl.com/4u85z827>).

However, the Integrity Authority also acknowledged in its report that the Hungarian public procurement system is “dysfunctional and has cost-increasing effect”, and therefore their recommendations include, for example, the creation of a uniform control system that would manage the entire public procurement process “holistically”.⁴³

Often, the state - the taxpayer - simply refunds the amount in question, while the real parties involved are not held accountable.

A celebrated development for further analysis and increased transparency is that access to public procurement data has improved somewhat thanks to the measures taken under the EU conditionality procedure, which has made the data on contract award notices available for bulk download. As the Integrity Authority pointed out in its 2022 report, the level and quality of completion and information content of manually introduced records in the Electronic Public Procurement System varies, suggesting that further systematic data monitoring by the Public Procurement Authority is needed.⁴⁴ The fact that the required data content is still not fully available for mass downloading complicates the verification. For example, the reference number of EU grants related to procedures, the name and ID of unsuccessful bidders, the justification for the use of exceptional procedures, the final value of contracts and information on direct purchase orders based on framework agreements should be made more easily available. Data on the exact value of consortium shares is also held by the Authority, but is not publicly available, although it would provide useful information for assessing the concentration of the various market players.

Summary of findings

We have now reached a point where the regulatory framework for public procurement is of a high standard, but the practice and monitoring of public procurement is so far below expectations that it has become synonymous with a public money suction pump. In practice, this leads to a lack of confidence in the public procurement system, resulting in low levels of competition and increased risks of corruption.

The EU conditionality mechanism has improved our knowledge of the state of public procurement, but this is not enough to restore real competition. It is unimaginable without effective, tendentious market monitoring. Further action is needed to increase transparency in public procurement and grant contracts, to reduce concentration and the overpricing that this entails, and to identify conflicts of interest more effectively. In parallel, there is also a need to improve the public procurement culture shaped by a manipulated system, which would have a negative impact on public procurement even if the legal and institutional framework were in line with EU directives.

43 See the Integrity Authority’s Integrity Risk Assessment Report on the Hungarian Public Procurement System, March 2023 (<https://tinyurl.com/33p7mk3p>).

44 See the Integrity Report 2022 of the Integrity Authority (<https://tinyurl.com/bdz73beu>)

From society of loopholes to state capture

József Péter Martin talked with historian Stefano Bottoni about the historical causes of political apathy, conformism and corruption, and the possibilities for citizen participation

A parallel can be drawn between the governance model of communist-era Hungary under the leadership of János Kádár, and the one we see today. These regimes got citizens on board by gradually bonding with different groups of society through a multitude of political, economic and cultural channels, including football, for example. By now there is a “psychological accord” between a large part of the Hungarian society and Prime Minister Viktor Orbán – says Stefano Bottoni, a professor at the University of Florence. In an interview for the White Book, he shared some insights into his recent book, entitled “Obsessed with Power”, which looks into the genealogy of past and present political and social developments in Hungary.

You write in your book, “We must overcome the temptation to interpret the ‘national cooperation system’ (NER¹) as a series of illegal acts.”² My interpretation is that this is a reference both to legalized corruption and to society’s attitude towards the regime. As a historian, what do you see as a likely precursor of legalized corruption in Hungarian history? Do you see similar patterns in neighboring countries?

Indeed, I do not interpret the NER as a series of illegal acts alone. The capture of the economy by NER-sympathizers has deepened in recent years, so much so that in connection with private equity funds we are starting to speculate how many thousands of billions of forints may be in the hands of NER-linked owners. This is a system that will have a profound and long-term impact on the course of Hungarian history. The NER has almost unlimited control over state and – conspicuously, in part – private financial resources. If we are talking about contemporary Hungarian capitalism, still there is a private sector and a market to some extent, so we cannot describe the current situation on the basis of the economic and socio-political patterns that characterized the period between 1948 and 1990. However, in fundamental aspects, today’s system operates differently from a capitalist market economy; it is enough to think of measures such as price caps. More and more, the market economy is being questioned as a mode of operation. In the last eight to ten years, there had also been a trend towards renationalization. It happened often temporary with state assets subsequently being redistributed among cronies loyal to the system. If we look at the purchase of Vodafone or the planned purchase of the

1 A Hungarian acronym of the Fidesz regime

2 Stefano Bottoni: *Obsessed with power - Viktor Orbán’s Hungary*. Alhambra-Press General Partnership, 2023, page 287.

It is a system that intends to influence the course of Hungarian history in a very profound and long-term way. It requires almost unlimited control over state and - partly - private material resources.

Budapest Airport, these transactions go beyond specific companies: these are steps towards controlling strategic sectors, and well illustrate the increasing concentration of capital and resources, and the state capitalist nature of the system.

This specific, network-based and systemic form of corruption has its antecedents in Hungarian history, and this is also true in a regional context. Under state socialism, for example, what mattered most was not

how much money you had, but who you knew, how many phone calls or pálinka (a strong Hungarian liqueur) toasts away you were from influential people on whom much may depend – a better job, advancing your child's education or career, getting admitted to a university, or getting a passport. Distrust towards the state grew significantly during the long period of transition in the 1990s. What sociologist József Böröcz called the “society of loopholes” became the norm of operation. Then the loopholes gradually became bigger, and today we can speak of a “society of Szekler gates”; nobody is held accountable for the wealth they acquired here and there, and the government systematically disregards any voices of dissent without any consequences. Multinational capital is one of the few exceptions to this rule; here we have seen concessions and some serious compromises, which have worked well enough so far. But the dependence of the Hungarian economy on foreign capital, which became stronger after the change of the political system (in 1989-1990), is now bothering the political establishment, and they are trying to trim it back. There is a price to pay for this, and it consumes a lot of resources – whether they are available or not.

The large-scale nationalization and the transfer of wealth to people close to the government triggers old socialist reflexes, and when those currently in power come up with arguments against capitalism, it bears the imprint of forty years of state socialism, and before that, the Horthy era. The kind of capitalism characteristic of the Horthy era is still relevant because there was a huge public sector, a corporative state, and some market-like enclaves: companies, which operated in a capitalist manner. But the system was autarchic.

Hungarian sociologist Lajos Leopold called the period of a hundred years ago “Potemkin-capitalism”. Are we witnessing the emergence of something similar?

Partly, yes. In Hungary, a significant part of the added value is still, at least formally, generated by the competitive sector. But within the sector, we see the biggest growth where the direct or indirect influence of the state has grown. The state is the largest employer and there is a patronal system linked to state enterprises and institutions. In such a system, there are informal rules defining who can get support, so as to secure the “blessing” of the owners. The growing influence of certain families is also very interesting. In Hungary today, 10-20 families, mostly interconnected, run an economic system of astonishing size, and it is constantly expanding. The owners are people who, in one way or another – either because they hold an office or

because they are relatives or half relatives of someone in the system –, are linked to the state, so they are not independent market players. Not only is this system difficult to untangle from a legal point of view, but it requires serious network research to even begin to map it out.

The system is friendlier than it was in 1948, when people had no choice but to let the state nationalize their businesses and be happy that they did not end up in prison. The lucky ones were allowed to stay on as chief accountant of their former companies. There are no such things now, everything is much more informal. For example, one may receive an irrefutable buy-out offer that one is warmly advised to accept, otherwise one may become subjected to, say, a very thorough tax investigation, which may not end well. This is how public institutions can be used for non-public tasks, and how the borderline between the public and private sectors is blurred. And that is the most difficult thing to explain to foreign partners; because the laws tell us very little about what is actually happening.

Compared to the 1950s of hard communism, the NER is a much more sophisticated, more porous system, where a lot of things are decided informally, without any written records. Hard data, tangible documents and evidence – even in the form of e-mail – on which to base legal actions either do not exist or will not be disclosed for 30-50-100 years. But conclusions can be drawn. It is also interesting to observe how a regime that makes national sovereignty and independence the center of its rhetoric, unreservedly uses the tax havens operating under global capitalism when it serves its economic interests. This operating model is modern and innovative.

This specific, networked and systemic form of corruption has its antecedents in Hungarian history, and this is also true in a regional context. Under socialism, for example, what mattered most was not how much money you had, but who you knew, how many phones calls or shots of pálinka far are you from people on whom much may depend.

Not only have the state and partly the market been captured by the regime, but the Hungarian society has also been shackled. You write in your book that a “psychological accord” has developed between a large part of Hungarian society and Viktor Orbán. You describe a linear development of Hungarian society’s attitude to soft dictatorships, starting with the period of Austro-Hungarian Empire (1867-1918), followed by the Horthy era, the Kádár regime and now the Orbán regime. So, can this “psychological accord” be explained by historical reasons, or does Viktor Orbán have a special skill not seen before in Hungarian history?

I indeed examine four, semi-authoritarian periods in a row. It is very interesting to me that in none of these periods did the political establishment make real progress towards modernizing the country. For example, the political leadership of the “Hungarian” half of the Austro-Hungarian Empire was relatively progressive in the 1870s-80s, but not at all in the 1910s. It was unable to innovate, for example in matters such as the electoral law or the nationality question. The political elite remained passive. As a result, after 1905, a “cold” civil war began in Hungary, mainly in the form of a culture war, some elements of which are still with us more

than a hundred years later. Under the Horthy regime, the opposition Smallholders' Party and the Hungarian Social Democratic Party still did quite well in the 1922 elections. So, despite the events of 1918-19, the Horthy regime did not shift to the far right in the early twenties. But with the Great Depression (between 1929 and 1939), and then the debut of Hitler on the political stage, a gradual shift happened to the extreme right in the 1930s, culminating in fascism. The Kádár era followed a similar trajectory: in the 1960s, despite the bloodshed of the 1956 revolution, Hungary achieved a relatively good position within the socialist Eastern bloc, but then the system stiffened in the 1980s, and the political actors were no longer capable of doing much more. It is important to note that the Kádár regime was the only one (out of these four systems) that ended with a peaceful transition to democracy.

Do you foresee such a trajectory after Viktor Orbán and Fidesz assumed power in 2010?

In the democratic transition, Hungary seems to be repeating this trajectory: around 2000, Hungary was a relatively well performing country in the region, no one saw it as a problem. Then, from the early 2000s, we started to detect problems, and then came the Orbán's autocracy.

The legislation tells us very little about what is actually happening. A lot of things are decided informally, by word of mouth.

So, what we see is that the semi-authoritarian regimes in Hungary are not unique stories, and while these cases are not identical, the fact that these regimes eventually lose their adaptability and become incapable of internal reform politics, is common to them. And then either external or internal shocks will determine their faith. Politically, the presence of a dominant,

ruling party (the "party of the nation") – be it the Liberal Party and then the National Workers' Party under the Austro-Hungarian Monarchy, the United Party under the Horthy regime, the Hungarian Socialist Workers' Party (MSZMP) under the Kádár regime, or Fidesz today – is a recurring pattern, and it is very interesting that this model has been able to mobilize society and consolidate the underlying (political) power in four different regimes over a sustained period of decades.

In examining society's attitude to the Orbán regime, in the book you return many times to the Kádár era and to the personal experiences of Viktor Orbán and his family about the way the Kádár regime functioned. Is it fair to say that there is nothing new under the sun, and that Hungarian society has a similar attitude to Viktor Orbán's authoritarian, hybrid regime as it did to, say, the Kádár or Horthy regimes, or is there something special here?

We don't have sociological studies on the attitudes held by different segments of the society towards the political systems during the Austro-Hungarian Empire or in the 1920s and 1930s, but we do have a clear picture of how people in the 1970s and 1980s – many of whom lived through the 1956 revolution – related to the regimes of the time, to the bloodsheds and repression that went with these regimes, and the subsequent consolidation. We know that on the surface, they adapted to a life of compromise and conformity with the system during the Kádár era, while trying to lead a parallel life independently of the regime.

Is this what we are seeing now in the Orbán regime? The average Hungarian may not like the system, but he/she adapts to it?

In some respects, yes. But I see three big differences. One is that there is complete freedom of movement within the European Union, within the Schengen area. It was not easy to escape from the Kádár regime, only a few managed to do so. It was not possible to lead a cross-border commuter life then, but it is possible now. Today, in Hungary, with its population of around 9 million, hundreds of thousands of people opt for a mobile lifestyle that knows no borders. The other difference is that there are “enclaves” that operate according to the rules of capitalism, so part of the economy is still more or less market-based, there are multinational companies, which also means that hundreds of thousands of people – a large part of today’s middle class – have relatively well-paid jobs and are exposed to much less state interference in their lives than they would have been in the Kádár era. Regarding the third aspect, the situation has worsened. We used to think that apathy was confined to a certain generation, that young people are more active and outspoken. We were wrong. And here we also see a regional difference: in Hungary, young people tend not to stand up for their rights. I criticize my students a lot for this. For example, there is no general strike at the Corvinus University of Budapest, and they are not saying that there will be no education, no nothing, until Zoltán Ádám is reinstated in his former position as associate professor.³ Although there is some resistance by a few people, the dominant attitude to this and similar events in Hungary is silence. I understand that my grandparents’ generation refrained from expressing political opinions because they saw it as dangerous. But we see the imprint of this in today’s twenty-year-olds, and I think this marks the failure of the (political) transition that started in 1989. The political changes did not get transformed into a new set of democratic values. On this point, there is a big difference compared to Poland, for example, where more people aged under 29 participated in the 2023 elections than people over 70.

The semi-authoritarian regimes in Hungary are not unique stories. Politically, the model of the dominant, ruling party - be it under dualism, the Horthy regime, the Kádár system, or the Fidesz regime today - is a recurring pattern, and it can mobilize society and consolidate its own power in four different regimes over a sustained period of decades.

The political regime change has failed to deliver a new set of democratic values. On this point there is a big difference comparing to Poland, for example.

3 Zoltán Ádám, associate professor at Corvinus University of Budapest, was dismissed with immediate effect by the university administration on 24 October 2023, after it was revealed that one of the students, most likely the child of influential parents, had passed a subject exam in a separate and unauthorized way (editor’s note). For more information, see Dénes Csurgó (Telex.hu), *The only person fired from Corvinus after the exam scandal was the teacher who reported the ethical violations* [Egyetlen embert rúgtak ki a Corvinusról a vizsgabotrány után, a tanárt, aki az etikai vétségeket bejelentette], 27th of October 2023 (<https://telex.hu/belfold/2023/10/27/corvinus-adam-zoltan-kirugas-vizsgalat>).

Do you see this apathy – and not only apathy, but also a kind of conformism and opportunistic approach – being passed down from generation to generation?

Apparently, yes. It is so even in Buda neighborhoods, where the majority of families are well off, so conformity would not be a “matter of life” for them. Yet, many of them are rigorous rule-followers in the negative sense of the word. Or I should probably say they are loyal to the system. And if that is the case here, what can be the situation in places where the material and cultural means are too scarce for people to attempt the slightest resistance?!

At Transparency International Hungary, we too often face a complete lack of civil courage. It happens quite often that even people who are not supporters of the system refrain from having any contact with TI. It is true that the authorities are constantly trying to discourage people from acting as conscious citizens, but beyond that, we also see a kind of self-censorship, over-compliance, submission, not to say cowardice. It is similar to the “I keep quiet, I have no headache” mentality of the Kádár era. Several times in the book you refer to the fact that Hungarians are not only distrustful of everyone and everything, they also feel insecure. Do they feel so insecure that not only do they avoid standing up for social issues, but also for themselves and/or for common sense?

I am also desperate for an answer because this mentality is one of the root causes of our problems and hopelessness today. The past and the recent past, the behavioral patterns and individual strategies for getting on in life that people have learned and inherited, must surely have a huge impact. Interestingly, the generation gap that usually induces changes in a society is much smaller in Hungary than in Romania, for example. Here we see almost a toxic cohesion between generations, which ultimately pulls everyone down. What sociologist Imre Kovách said about extreme individualism prevailing in Hungarian society in the 1980s is still valid today in the sense that people are not interested in anything beyond their families. The depravity of public life reinforces the attitude of “trust no one, rely on yourself and your family”.

The government is constantly creating images of external and internal enemies – migrants, gays, etc. This further fragments society and makes solidarity impossible, while giving way to the will of those in power. It would be worthwhile to find out why this has happened in Hungary – more so than in other former

socialist countries. It would also be worth examining what Hungarian public education has done to teach Hungarian students aged between 6 and 18 the basics of democracy and the democratic rules of the game. Very little, I am afraid. For example, has there been any real student representation? The truth is that real student representation was never allowed, and the student self-governments (HÖK) that were set up at the universities around 1990 are often mafia-like, with HÖK leaders using the student network for building up their own businesses and/or career. Meanwhile, university students were gradually depoliticized within a few years.

During the Kádár era, a significant number of Hungarians positioned themselves to appear conformist to the system, while trying to live their own little lives in their own world “independent of the system”. This is partly what we are seeing now in the Orbán regime.

In Hungary, we didn't have mass movements like the "Prague Spring" in 1968, or the 1989 revolution in Romania that ended with the execution of former communist dictator Nicolae Ceaușescu; what I mean is that we didn't have really active social participation. In Western Europe and in America, the social and political movements that swept through the world in 1968 served as a wake-up call for universities and the education system that World War 2 was over, that innovation and modernization were needed. Within the former socialist block, the education systems in Poland and the Baltic states have mirrored the system applied in Northern Europe. They are trying to adapt the Finnish and Swedish models, which are more sensitive and innovative in their response to social processes and economic changes, and are relatively successful, at least according to the PISA survey results. Meanwhile, education in Hungary can be best described as a Prussian–Post-Soviet mix, which the NER has centralized and fully controls.

Even in Buda neighborhoods, the majority of families are in a financial position where conformity is not a life issue for them. Yet, many of them are loyal to the system. And if that is the case here, what can be in a place where the material and cultural opportunities are not there for anyone to show the slightest resistance?!

The recently adopted "status law", which strictly regulates teachers' wages, career paths and their rights to self-determination and interest protection, was the ultimate blow to any hopes of having a modern education system in Hungary. Underpaid teachers will not take action: they either quit the system – which, by the way, only a small percent of the teachers have done so far – or they play by the rules. The same thing is happening at universities. The process began in 2014 with the government appointing chancellors to supervise the finances and business models of universities. This system turned out to be a vehicle for the government to impose their will on the democratically elected rectors. Yet, there

was no resistance; the whole reform went through smoothly. Then the government extended its grip on higher education by restructuring many of the leading universities into a foundation scheme where the board of directors is mostly composed of influential NER figures. This system goes against the right to academic freedom, and it serves as an additional means of channeling state money to the NER circles. Still, with few exceptions, there was no substantial opposition from universities. I find this passivity and resignation deeply alarming.

*The overall conclusion of your book is pessimistic. You write that an "uncivil" society might eventually dismantle the system. In their 2019 book entitled *The Narrow Corridor*,⁴ Daron Acemoglu and James A. Robinson argue that democracy and prosperity can take firm root in societies where the institutions work well, i.e., the state is sufficiently strong but not overbearing, and above all it is transparent, uncorrupt and unbiased, and citizens have affinity for democratic values and for exercising their democratic rights. In Hungary we are far from that, as you have just said, even among youngsters. So, what can we hope for?*

4 Daron Acemoglu – James A. Robinson (2019): *The Narrow Corridor: States, Societies, and the Fate of Liberty*, Penguin Publishing Group, 576 pages

The “narrow corridor” is a good model, but how can we explain that a country that a quarter of a century ago served as a model for democratic transition for several countries in the region – and in this case, the young and older generations were unanimously supporting the changes – turns into such a society twenty years later?! Or take the example of Serbia: there was huge support among Serbs for banishing Slobodan Milosevic in 1999-2000, but since 2003-2004 we have seen a strong democratic backsliding there, too. In comparison, the Russian story is quite straightforward: the conditions for a “narrow corridor” were not there in the 1990s, and they are not there now. In Romania and Ukraine, however, this “narrow corridor” has been created, and generations have grown up who now have a radically different approach to public affairs. A society must go through stages of development, and in Hungary in the second half/end of the 1990s there was a fairly broad consensus on the democratic direction; it was not foreseen that this could soon be reversed.

In fact, the opposite would have been logical... What could be the main - if you like historical - reasons for this backsliding?

What the literature calls “democratic fatigue” is, in my opinion, definitely present in Hungary. Historian Melinda Kalmár has made a very good point: what if the political changes happened too smoothly in Hungary? She stipulates that the exposure of the Hungarian society to a period of semi-democratic transition in the first half of the 1990s would have taught citizens about the consequences of having a far-right party, like István Csurka’s Hungarian Justice and Life Party, in power for a few years. In this case, people would have had to fight for the completion of the political transition, so they would value and safeguard democracy more readily. As it happened, people did not have to fight for the collapse of the Kádár regime in 1989 and for the transition from communism to democracy; they were handed everything on a plate. We could start counting the turnout at demonstrations, but in truth it was not the citizens but the Hungarian Socialist People’s Party (MSZMP), the Miklós Németh-led government at the end of the eighties and the Soviets who really decided the course of political events. What if there had been a setback in the political transition in the mid-nineties? It might have created a more deeply rooted quest for democracy, which was rather latent in 1988-89. In Czechoslovakia, Yugoslavia and Romania it was clear from the start that the transition was not a foregone conclusion. And more recently, Polish voters came to their senses in 2023 and said “no” to a semi-dictatorship. So, we can see political dynamics there – but not in Hungary.

Now there is no general strike at the Corvinus University of Budapest, they do not say that there is no education, nothing until associate professor, Zoltán Ádám is reinstated to his former position as lecturer. The dominant attitude is silence.

In a 2009 speech, Viktor Orbán described the pre-Fidesz period of the political transition as “twenty troubled years“, so he practically deleted those two decades when democratic values were in the center of political thinking. And the Hungarian society was in no hurry to defend the democratic path that had been chosen by consensus in 1989. Today, I still do not see how this accord between Viktor Orbán and a large part of Hungarian society on this issue could

be broken. Obviously, there are cracks caused mainly by the deteriorating economic situation, but this could easily result in the far-right Mi Hazánk (Our Homeland) Party ultimately gaining strength. Just as the Fascist Party (Nyilaskeresztes Párt) emerged as the strongest challenger of the Unity Party in 1939. Mi Hazánk is popular among young people, and I would not be surprised if they get 15 percent of the votes in the next general election. In Poland, the radical right-wing Confederation party is also increasingly popular among young Poles, still they did not get more than 6-7 percent in the 2023 elections. If the socio-economic situation continues to deteriorate in Hungary, Mi Hazánk stands to gain the most from this, because they hold very strong views on controversial issues, such as the Roma issue, gender issues, anti-capitalism, Westernophobia or national sovereignty.

The government is constantly creating external and internal enemy images. This further fragment society and makes solidarity impossible, while giving way to the central will.

In the book, you give very little chance for a return to liberal democracy after the Orbán regime, rather anticipating an infight among oligarchs or a different autocracy (“NER”) without Orbán. Since you already mentioned Melinda Kalmár, she recently argued⁵ that, contrary to what many claim (that the system cannot be consolidated because it is based on constant confrontation), there has been some consolidation because a large part of society is either cooperative or apathetic, so in one way or another submits to the rules of the regime. When and how can the system fail?

A parallel can be drawn between the governance model of socialist-era Hungary under the leadership of János Kádár, and the one we see today. These regimes got citizens on board by gradually bonding with different groups of society through a multitude of political, economic and cultural channels, including football, for example. There are a lot of issues that can be used to attract public attention. Just think of how the NER has re-taken the lead on public discourse on issues that were abandoned by the public authorities in the 1990s. Sociologist, Imre Kovách says that the NER divides society into groups based on how deeply they intend to integrate them politically, culturally or just in terms of the labor market. For example, according to this

The NCS has been running for more than a decade and could run for another five or ten years. Its fading will also be slow, “long covid”, with a slow recovery. NCS will seal the fate of the country for decades.

theory, a blue-collar worker is probably content to fit into the socio-economic frames pre-defined for his/her “class” and to defend his/her position there. As time goes by, more and more people grow up and live their adult life withing this framework, so they will not question this system. The NER has been in place for over a decade and could stay with us for another five or ten years. Its demise will be slow and painful, like the “long covid”.

5 Windisch Judit (Hvg360.hu): “If the Orbán regime does not collapse, it will consolidate” - interview with Melinda Kalmár [„Ha az Orbán-rendszer nem omlik össze, akkor konszolidálódni fog” – interjú Kalmár Melinda történésszel], 14th of June 2023 (https://hvg.hu/360/20230614_Kalmar_Melinda_tortenesz_magyarorszag_2050_orban_kadar_rendszer_nepvandorlas_eu).

We always praise 1956, and in general, revolutions in words, while social reflexes and attitudes are very much anti-revolutionary in Hungary.

The NER will set the course of the country for decades. Just like when Kádár was pushed aside in the 1980s, there may come a second line of people who realize that autocracy is no longer the best option, so another Miklós Németh may come along and then we can start negotiating and making deals with the political establishment. Naturally, they will ask for security guarantees. These guarantees will not be for avoiding execution or imprisonment, as was the case (in several Central European countries) in the 1980s; they will want to keep, say, a significant part of the stolen wealth. This will of course create a dilemma for any new political establishment, because having control of the resources is a fundamental issue. But this is the only solution for a peaceful transfer of power; any other scenario would lead to civil war. After the 1956 revolution, however, Hungarians are weary of the prospect of another bloodshed. There seems to be a broad consensus that there is no way to emerge as the winner from such conflicts. It is a strange contradiction: we always speak proudly of the 1956 revolution, but our social reflexes and attitudes are very much anti-revolutionary.

Can the system be undermined by pressure from the West, especially from the European Union through the conditionality procedure, which makes the disbursement of European funds conditional to the restoration of the rule of law in Hungary?

The lack of EU funding will undoubtedly make things more difficult for the NER. But while I understand why the EU is doing all this, and I agree that not a euro should be transferred to them, I fear that it is helping to radicalize the system. The big question is how the population will react to this radicalization, including the ever-closer ties with Russia, which poses serious geopolitical risks. Fidesz measures the public sentiment almost daily, so I assume that unless they have completely lost their minds, they will always be able to adjust their “peacock dance”⁶. But if all comes to worst, and the system is no longer economically sustainable because there is no money coming from the West, or very little, and the Chinese are not giving as much as the NER expected, or not on terms the NER could afford, and there is no help from the Russians, well, then the system will react – as authoritarian systems or semi-dictatorships do – by intensifying their rhetoric. How society would react to this is another question. Thanks to the Schengen system, people like me are free to decide where they want to live in the EU. So, there is a perfectly legal exit option, you don’t lose your property, you don’t lose your citizenship, you don’t get convicted of defection, you can come home at any time; you become invisible to the system. I think that the Hungarian middle class, for the time being, is coping with the system not through

For the Hungarian middle class, for the time being, the answer to the system is not political engagement and resistance, but diversification of positions and portfolios: a bank account in Austria, a child doing his university studies in the Netherlands, and so on. This is the soft escape route.

6 An expression used by PM Viktor Orbán to describe the government’s hedging between the “West” and the “East”.

political engagement and resistance, but by diversifying their income sources and properties to have more options: a bank account in Austria, a child doing his/her university studies in the Netherlands, and so on. This is the soft escape route. But if this tendency of relying on individual escape plans intensifies, it will weaken the chances of collective action.

Do you see any real danger of a Lukashenko-type dictatorship emerging?

I would like to believe those researchers, such as András Bozóki and Dániel Hegedűs, who wrote in the middle of the last decade that membership in the EU and NATO provides a partial shield and encourages a kind of self-control.⁷ But nothing can be ruled out anymore. After Russia's invasion of Ukraine in February 2022, the earlier argument that this or that would not be a rational action is, for me, no longer valid. Putin was previously known as a cold-headed, rational political actor. But that theory has failed. Whether Viktor Orbán will abandon rational thinking in the long term, we don't know. If his room for maneuvers narrows because no EU money comes in, or the Americans start banning Hungarian government officials and oligarchs from entering the US, it could create a situation that is increasingly difficult to manage purely with communication techniques. Such a scenario would offer two options: either they give in, or they get tougher.

Over the past five-six years, the government tightened its grip on cultural and economic policies, which did not benefit either sectors. But since there has been no significant resistance, it can be concluded that this is sustainable. For the time being, they don't seem threatened

So far, they do not seem threatened by anyone or anything.

by anyone or anything. However, in contemplating the possible demise of the system, there is an obvious difference from 1989: there were no oligarchs then, but there are now. What if, driven by rational self-interest, one of them says "no more" and creates a new political party, which is then embraced by the voters?

We have seen this before, for example in Ukraine. With public sentiment on the state of the economy deteriorating in Hungary, such a scenario is not unimaginable here.

In the book, you do not treat today's NER kindly (you call it a predator state, an authoritarian regime, a legal dictatorship), yet in the first half of the book you are very sympathetic to a younger Viktor Orbán who was then in opposition and the early NER. You assess the economic performance post-2010 and up to the COVID pandemic as "moderately-good", the cultural performance as "unmatched", drawing parallels between the "national center" policy of former socialist Prime Minister Péter Medgyessy and the "national cooperation" regime. Then, from about the second half of the 2010s, your assessment of the situation turns extremely negative, and it is striking that you end up comparing Orbán to Ceausescu and Hitler on one or two points, for example in terms of feeding a personality cult and the use of propaganda. Does this trajectory mirror the evolution of your personal disillusionment?

⁷ Cf.: András Bozóki – Dániel Hegedűs (2018): An externally constrained hybrid regime: Hungary in the European Union. *Democratization*, 25:7, 1173-1189 o. (DOI: 10.1080/13510347.2018.1455664). European Union. *Democratization*, 25:7, 1173-1

This assessment is spot on. I had hoped it wouldn't be so obvious in the book, but I accept it's there. There is a scientific question behind this, whether this path was inevitable. In his 2009 speech in Kötcsé, Orbán introduced the foundations of the new system that became known as the NER. It was a huge mistake and underestimation on my part and on the part of many that we did not take this seriously at the time. Because Orbán followed up on many of the things he said then. Viktor Orbán is undoubtedly a political talent, although many people dispute that, but I see him as someone who, on the one hand, planned his system meticulously and built it up step-by-step, while he was also able to take decisions on the spur of the moment – and, very importantly, he had the wisdom to realize when he needed to back down. The other question, which I hope my book adequately explores, is when this man became disillusioned with the democratic model he actively helped creating in the late 1980s. I don't think he was faking it then... I think he never really came to terms with the 2002 election defeat and how it was handled, and between 2007 and 2010, he was working on dismantling democracy once he assumes power after the previous “twenty troubled years”; he wanted to create something new. The process was planned from the start to be irreversible, with the help of re-writing the constitution. In the last decade, there was still a chance for reversing the democratic backsliding. But this opportunity has passed, and today the NER is in control, its mechanisms are set in stone.

The interview was conducted on 25th of October 2023.

II.

Case studies

EU funds for common good

Chocolate factory and visitor centre

A social enterprise built from a sweet dream

The BeSweet Chocolate Manufactory and Visitor Centre in Szekszárd, built with EU funding, employs people with reduced working capacity and fully meets efficiency requirements.

- *We only eat it when Pepe lets us.*
- *But which is your favorite?*
- *Almost all of them.*

This is Erzsó's honest answer to the question of which is her favorite chocolate that she makes herself at the BeSweet Chocolate Factory and Visitor Centre. His colleague Balázs is quick to take over, with pistachio milk chocolate being his favorite, but he also likes drained seeds and chocolate-coated dried fruit, such as cinnamon-white chocolate dried apple. Évi, who works with them, immediately takes me to the draining machine, which only she and one other person can operate, because it is a complicated process and it is done with a semi-automatic machine, so the human factor is important and requires expertise. It is rare to see people so enthusiastic about their work.

Of course, chocolate can easily melt the heart, especially at BeSweet, after Péter Blaskovits, aka Pepe, the plant manager, takes you on a tour of the empire. An expert in chocolate making, the handyman of all the plant's activities, shows the machinery, the warehouses for raw materials and finished products, the workflow, the preparations for the Advent chocolate timing. Finally, he introduces me to his colleagues, most of whom are now women, but all of whom are disabled and special employees.

When we enter the plant, separated from the visitors' area by a glass wall, where Erzsó is tempering habanero chilli chocolate, she explains without a moment's confusion the required temperatures, ratios and rules of chocolate cooling, and even performs the necessary processes - except for the dosing of chilli powder, which she leaves to Pepe. Balázs is said to stammer, an anxious personality, and when he first came to the factory he was not even able to speak in small groups. Today, however, he likes to perform, explaining the process of pouring the poppy seed and lemon chocolate into the chocolate bar and explaining the recipe. He doesn't stammer, and his every word is sweetened by the self-esteem that he and his colleagues presumably derive from the work and the attention it brings.

Permanent employment of people with disabilities is a tightrope walk in the day-to-day running of the business, and needs to be constantly balanced.

Specialties

This is an average Tuesday morning in BeSweet, the chocolate-colored building, where premium handcrafted chocolates and other delicacies are made, which was dreamed up by the Blue Bird Foundation of Szekszárd and is run by the Szekszárd TÉR - Társadalmi Értékért Nonprofit Kft. Nearly 20 people with changed working capacities and permanent disabilities work here, but not in the traditional shifts. It is a specialized workplace in that the hours between 8 AM and 4.30 PM they take into account the workers' transport options, as well as their other skills, abilities, physical and mental capabilities.

In Péter Blaskovits' team, everyone has learnt everything flexibly, taking into account individual workloads, so they can participate in all work processes - says the plant manager.

„Of course, we allocate jobs based on practical experience, so if, for example, someone has a problem with fine motor skills, they can work in a less manual job, let's say, not at packaging” says Andrea Mészáros. The head of the Blue Bird Foundation and the non-profit social enterprise also speaks honestly about the fact that the permanent employment of people with disabilities is a kind of tightrope walk in their daily operations, as they are constantly balancing between social responsibility, their mission and sustainability, efficiency and profitability. He makes no secret of the fact that they undertake - and are forced to employ - people with special needs because they are six to eight times more likely to be unemployed than the majority of society.

Chocolate covered dried sweets

The Szekszárd Blue Bird Foundation was established in 1997 to create work opportunity for people with health conditions or impairments. Primarily not in a sheltered - or in other words segregated - way, but in the open labor market. In 2007 they set up a restaurant called Ízlelő in Szekszárd, with to create sustainable jobs, following their mixed experiences with the latter. This was the first restaurant in Hungary where, apart from the management, only people with disabilities, reduced working capacity or learning difficulties work. In 2019 they opened an Ízlelő restaurant in Budapest, while in 2014 they also started to offer handcrafted sweets. Initially, they made syrups and dried sweets for the restaurant, but then they “chocolate-covered” the dried sweets and they became so popular that they saw a niche market and an employment opportunity. In five years (from 2014 to 2019), they managed to purchase the 2024 square meter plot of land for the manufactory in the outskirts of Szekszárd from their own resources, where they opened BeSweet in July 2020.

The money needed to create the chocolate factory and the associated venue was largely funded by EU funds, but also required equity. The budget for the manufactory project was HUF 138 million, of which HUF 116 million came from the EU; the venue, a visitor centre attached to the chocolate factory, had a budget of HUF 94 million, of which HUF 73 million came from

the EU. The Bluebird Chocolate Factory - Food Manufactory and Visitor Centre project was implemented under the call for proposals GINOP-5.1.3-16-2017-00043 “Promotion of Social Enterprises”, with a non-reimbursable grant from the European Social Fund and the national central budget.

Looking back on the operational and administrative burdens over the years, Andrea Mészáros says that they not only write their own tenders, but also put a special emphasis on transparency and doing business in a way that ensures value for money - analyzing and monitoring the market. In this construction project, as environmental sustainability is also important to the foundation, they made it a priority to partially dig the plant into the hillside - in order to set the ideal temperature for chocolate making with less energy consumption. For the construction, the Blue Bird Foundation conducted an open tender procedure and the winning bidder was Gastimpex Hungária Kft.

The 324-square-metre building, designed to serve as a food factory and visitor centre, cost a net HUF 59.7 million, with the visitor centre being completed for an additional HUF 33.6 million. The focus was also on accessibility and - while preserving the craftsmanship - facilitating the use of equipment in the manufactory and the catering area, with a total of HUF 42 million spent on equipment.

Unique design

Their accounts, submitted separately for the two rounds of the project, itemize the machinery, furniture and other equipment purchased. For the launch of the chocolate factory, a uniform and unique design was planned, which is reflected not only in the visual elements of the building, but also in the packaging and even in the product itself, for example the shape of the chocolate bars. The total cost of the design elements was HUF 5.1 million, with training, marketing communication activities in compliance with the rules and the costs of planning the investment and obtaining the building permit being the biggest expenses.

However, Andrea Mészáros also told us that, unfortunately, they do not have the funds left for the “green roof” of the building, covered with plants and other types of energy improvements, which they would have been in great need of based on the experience of the past months. “It’s a very high energy-consumption activity and our costs have risen by 6 to 8 times in the past year, so if we find a relevant tender that social enterprises can apply for, we will definitely try it,” she says, making it clear that sustainability and a long-term vision are key to their project.

The manufactory has taken on 18 people on a permanent basis, 12 with health conditions or impairments.

The EU funding has given 28 disabled people with a reduced work capacity the opportunity to learn the skills of a skilled confectioner, a packer and a salesperson. The manufactory has taken on the permanent employment of 18 people, 12 of whom have a disability and 6 of whom are disadvantaged in the labor market for other reasons. There is almost no fluctuation, and most of those who find a job at the chocolate factory want to stay on permanently if their health and circumstances allow.

The manager also says that the visitor centre, while challenging in terms of food safety, was specifically designed to be an open space in every sense, where guests can meet disabled workers in some way. Therefore, a large glass wall separates the working area from the catering area.

Today, companies and retail partners are regular, returning customers of BeSweet.

“These encounters are important; with this community space we are building a bridge between the mainstream society and people with special needs,” says Andrea Mészáros.

However, it is not the social message that makes the BeSweet chocolate brand so popular, but the premium quality, the selected, ethically sourced ingredients and the very cool design, so this was also a key focus during the implementation of the EU project.

The manager emphasized the social entrepreneurship approach. The artisan chocolate is the successful product of a long-term sustainable business, which guarantees the noble goal and the message of allowing workers with disabilities to produce the sweets in the long term through their cost-effective operating model.

To see and to taste

Today, companies and retail partners are regular, returning customers of BeSweet. Distribution channels are developed while keeping in mind the capacity of the factory and its employees. Meanwhile, school groups, corporate team-building programs, or even guests of the Szekszárd wine tourism industry visit the visitor centre to see how the chocolate being made and of course to taste it - but the factory has also been the destination of field trips. Experience has shown that the main reason people go there is for the premium chocolate, and they don't always know that the place employs people with disabilities.

But the Coronavirus made BeSweet's popular workshops and events completely impossible for a while, and the plant even closed down temporarily, and then only operated intermittently with limited staff. “The coronavirus came at the worst possible time. We had to open anyway on 7 July 2020 because of the EU tender, even though there had been closures in the months before and after. So we actually had a wasted, lost year and a half, which we survived on the profits of the last 14 years of our restaurant in Szekszárd, almost using it up, because we made the decision together not to let anyone go from either the two Ízlelő or BeSweet. For months, we distributed our resources to our employees on a pro rata basis with reduced salaries, which

resulted in serious individual resignations, as our revenues fell to 30%. It was a big struggle, but we stayed together,” says the manager. Today, she is optimistic, as by 2021, the restaurants were slowly but surely back up and running, were profitable and, after the closures were lifted, visitors to the manufactory started to return. And 2022 has already shown that the model is viable in the long term.

Marianna Tóth-Biró

Hungarian medical technology innovation

Navigating their way to world success

Thanks to a Hungarian innovation funded by the EU, the precision of operations has been significantly improved, while procedures are shorter in time. This world-changing innovation will improve competitiveness not only in Hungary but also in the European Union.

One of the aims of EU development aid is to promote innovation in different companies, not only because it helps the recipient company to grow, but also because its success has a positive impact on the economy of the Member State concerned and the EU's competitiveness. The biggest enemy of aid effectiveness is corruption, which strangles fair competition, thereby reinforcing counter-selection. Despite systemic corruption in Hungary, there are EU projects that achieve their objectives: EU funding strengthens the position of the beneficiary company and helps to create a better product.

One such medical technology innovation that has been successful in all respects was implemented in the HUF 2.5 billion project "Navigation-based personalized restorative implants for a healthy society" (GINOP-2.2.1-15-2016-00004), which was implemented by Dicomlab Research Development and Service General partnership (Dicomlab Kutatásfejlesztési és Szolgáltató Kkt.), the University of Szeged and Sanatmetal Orthopedic and Traumatological Devices Manufacturing Ltd. (Sanatmetal Ortopédiai és Traumatológiai Eszközök Gyártó Kft.) in a consortium led by the latter. The funding period started in 2016 and ended in 2019, with 66% of the budget coming from the EU.

Increasing demand for prostheses

The project reflects the fact that in the 21st century, prolonged ageing poses many challenges to medicine and the medical device industry, whether it is the ageing of the skeletal system, the deterioration of the musculoskeletal system or increasingly difficult-to-heal fractures. Meanwhile, we want to live pain-free, fulfilling lives in old age. But the joy of good quality movement can often only be preserved by implanting a prosthesis. As more and more people live longer, more and more reconstructive surgery is needed in developed countries.

The seemingly complicated project title has two objectives. On the one hand, it was designed to reduce the time and radiation exposure of surgical operations and, on the other, to improve the precision of knee and shoulder prosthesis implant procedures. "When designing the project, we partly relied on Sanatmetal's core business. Our profile includes so-called trochanter

pins for hip fractures, which are the most common type of fractures in the world. One of the questions was whether we could produce a state-of-the-art implant and surgical device for femoral neck fractures that could be a world first. We also worked on knee and shoulder prostheses. In addition to conventional instruments, we have created a navigation-based instrumentation accessory that can be used to more accurately cut the bone-cutting planes

As more people live longer, more and more reconstructive surgery is needed in developed countries.

of a knee prosthesis during surgery and to more accurately fit the shoulder prosthesis in place. These were the areas covered by the project, which also involved another product area: the dental navigation marketed by Dicomlab, which has been further developed,” shares details from Sanatmetal’s Managing Director, József Farkas.

But what does navigation mean in this surgical procedure? There are several types of bone in the human body, one of which is called tubular bone. The largest of these is the femur. If it breaks, and if it is in the hip area, the surgeon drills the tip of the femur and inserts an implant with holes. The engineering challenge came at this point: how can the doctor’s hand navigate the drill in the operating room, and what kind of instrumentation is needed to hit the hole of the metal piece inside the bone - so that the metal is hit, but not drilled next to the intramedullary rod? Until the birth of Sanatmetal’s navigational innovation, doctors used X-rays to find this point: they would place the drill bit here and there on the outside of the thigh until the beam illuminated the correct position. However, during the procedure, the doctor’s hand was exposed to the X-ray beam, as was the part of the patient’s body being operated on, and finding the right position could take a long time.

“With the technique we have developed, a patented system of ingeniously designed targeting and a magnetic principle, the doctor can navigate during the operation without X-rays,” says József Farkas. The new development, which is an application of four patents, has not only minimized radiation exposure but also reduced the duration of the operation by tens of minutes. This time saved is good for the patient and the operating doctor, as well as for the hospital, as it helps to reduce operating room running costs. But the benefits of the innovation do not end there: the new system also significantly reduces the risks of surgery. When a surgeon uses X-rays to drill a hole through the bone by hand, he or she may damage the implant and introduce metal shavings into the human body. The new system allows the drill to pass through the metal without damage.

The development was aimed at reducing the time and radiation exposure of surgical operations and improving the precision of implantation procedures.

The other element of the project was to find answers to how the doctor can insert the implant in shoulder replacement surgery in an anatomically correct way. This requires the doctor to create a so-called personalized cutting template using the patient’s three-dimensional and CT images. “This navigation tool is pre-printed in three dimensions, placed on the bone and used to perform the drilling operations on the shoulder. The same technique can be used for a knee replacement,

where the end of the femur has to be carved with sufficient precision at many angles,” explains the manager. This technique not only reduces the surgical risks but also the costs, saving a lot of surgical instruments and their application time.

Scientific run-out

The project’s career in academic life is now taking off. “Although no longer as part of the tender, but we have created a test bench. We took it to the European Orthopedic Congress in Vienna and to the traumatology conference in Szeged. We also took a gutted X-ray machine with no radiation source, but we managed to make the test person perform the same movements as if he were traditionally operating under X-ray. It could also be an excellent teaching tool for medical schools. The device measures how long it takes the doctor to find the metal holes in the bone using conventional methods, how many times the hand is exposed to radiation and how long the operation takes. We set up the new system next to it so that both can be tested. A monitor shows the data to compare the two methods. We are recording all the measurements officially because we want to show in a European journal what our system can do” - explains József Farkas, who recently returned from South Africa, where the new system was also demonstrated.

It is not enough to create such a development with engineers and a team of doctors - it is a long and costly journey to turn it into a product.

Sanatmetal’s management hopes that this Hungarian innovation will become increasingly popular in more and more places around the world. It is already being used in several EU countries, as well as in Latin America and Asia. The success of Sanatmetal’s products can be multiplied by the fact that the company is already present in 55 countries, with exports accounting for 72 percent of its revenues in recent years.

It is important to know that it is not enough to create such a development with a team of engineers and a team of doctors - it is a long and costly journey to turn it into a product. Strict regulations (MDR) govern clinical trials and the approval process, all of which together cost a horrendous amount of money that small and medium sized enterprises cannot or can only cover with difficulty. This is why EU support is so important. Sanatmetal has invested its entire share of the consortium’s budget in the research and development process.

Avoid “jackal companies”

Another ingredient of success is the perseverance of the management, the mental strength that has enabled the company to navigate its way out of many difficult, sometimes losing, market situations and put the company on a growth path. With sales of 8-9 billion, Sanatmetal is now one of the top 20 companies in Europe in the orthopaedic-trauma-spine medical technology sector.

József Farkas is particularly attentive to Sanatmetal's transparency: he is proud that he has not entered a tender where "jackal companies" advertise the "sure-fire" support they will get if certain conditions are met. "We have been approached by such companies. But we make the development, we make the product, we have to defend it and we have to account for it. We have never used an external tender writer, we have an in-house professional team," he adds.

Dóra Ónody-Molnár

A role model for women business leaders in heavy industry

From Bánytereny to world brands

The owner-manager of NeWeld Kft. (Ltd.) saw an opportunity in an EU tender and cleverly used the 70 percent non-refundable grant to give her business wings. In doing so, she has helped not only his company but also the local area, one of the poorest in the country: three-quarters of the workforce are Roma skilled workers.

Some of the titles and phrases often used in connection with EU projects are now completely empty of meaning. These include, for example, “the aim of reducing territorial inequalities in aid policy” or “catching up the most disadvantaged Hungarian small regions”, but also “the aim of reducing poverty and exclusion”, or “job creation with special regard to the integration of the Roma”. Not by chance. Almost twenty years since we joined the European Union, development money has flowed into Hungary through several EU budget cycles, but in Hungary, the inequality indicators have hardly changed, and the disparities between the various regions of the country have remained unchanged.

This is why the success story of NeWeld Kft. is noteworthy, a small company that has set up a plant in Bánytereny, near Salgótarján, one of the poorest villages in the country, and has become a supplier of products to major car brands such as Porsche, Aston Martin, Lotus, Lamborghini, Audi, Volkswagen, General Motors and Ford. By the way, due in part to EU support, the company has increased its workforce from two to twenty in just a few years.

Katalin Hegedűs has been running commercial companies for three decades, but she has always dreamed of creating a company that actually produces something. The story started in 2011, when she moved back home from Italy and founded NeWeld Kft., initially trading in special welding materials (so-called fill rods). Then she reorganized the company a bit.

To recognize the business niche

“I went to the first ten customers, and it turned out that I was the umpteenth company with a similar profile that day. At one point, one of the customers told me that he wasn’t that interested in welding, especially not beside a mammoth company like Böhler in Germany. But do we have any hard solder material, because if we do, they are waiting with open arms,” recalls Katalin Hegedűs of the early days. Yes, this was a business niche, which she then recognized with good sense and reprofiled the company accordingly.

To understand this, here is a brief technical description: hard soldering is a type of welding that takes place at a lower temperature than conventional welding. The metal filler material - the “glue” - is melted at a lower temperature. While welding uses steel wire as the filler material, hard soldering uses silver, copper and aluminium.

Katalin Hegedűs has always worked in the heavy industry, which is something of a family heritage, as her father was one of the directors of Technoimpex. Older people may remember that the company had a long history of selling machine tools under the Kádár regime, after nationalization, but it traded with not only Eastern partners but also Western ones. As a result, Katalin Hegedűs lived abroad for many years.

“I worked with my dad since I was 18 years old. I basically grew up in factories. I love watching products being made and watching workers creating something. I ran commercial companies for 30 years, but that’s a completely different field. Trading is easy for someone who has it in their blood, it’s a low hassle. If there is a world crisis, you have less income or none at all, but you are not burdened by the fate of twenty families, as I am now. There were only two of us in the company before 2018, and now I employ 20 people,” says the owner-manager. She then explains how the EU grant came into play, turning the company, which had previously been doing solely trading, into a manufacturer.

Thanks in part to EU support, the company has increased its workforce from two to twenty in just a few years.

“I started with just one turner operator, a skilled, reliable worker of Roma origin, Sándor, whom I lured away from General Electric,” she recalls, adding that she didn’t even know what she would want to produce when she saw the EU tender, but she was sure that no matter what, she would fulfil her dream and switch to manufacturing. Then it was soon decided what to produce.

“I asked one of my customers what he needed. And I got the opportunity for Porsche parts. They ordered a total of ten different types. In 2018, we started production with these in the plant that we built with the tender we won. Since then, Porsche hasn’t given up and the number of orders has been increasing year by year,” says the CEO.

Suitability or wonder?

It is leadership at its best, when a good leader looks for the opportunity, seeks it out, and when they find it, they take it. Katalin Hegedűs, however, says it is a bit of a miracle what has happened to her: “Porsche had a reliable supplier in this area, but they suddenly got fed up, just at the moment when I asked my customer what he needed. So it was an opportunity for them to look for another supplier, and moments like that are miracles in the car industry. We became a second-tier (Tier 2) supplier, and we manufacture for the first-tier (Tier 1) suppliers. The Tier 1s solder our parts to the tubes, and the whole soldered tube goes to Porsche,” she explains.

And what do you produce on NeWeld's production lines? Special tube connectors, such as the air intake tube, oil or water hose, but also all kinds of other things that might be needed in a vehicle. The NeWeld staff also makes the connectors that are soldered onto the tubes.

One of the conditions of the non-reimbursable EU grant (project name: Complex production expansion at NeWeld Kft., project number: GINOP-1.2.1-16-2017-00860) was that the investment should be implemented in a disadvantaged area of Nógrád county, creating jobs for the people living there. "The non-refundable part was important for me because it allowed me to create profits for my company. But I understood that this was also a good way for Hungary, so I got in the car and went to Nógrád county, because I had never been there before, apart from Mátra. I looked around and that's how I found Bátonyterenye. Three-quarters of my employees are Roma. I made sure that the employees felt that the company was their own and that we were essentially a small family. We have managed to achieve this for the time being," says Katalin Hegedűs.

Everything is right

The total cost of the project was HUF 80 million. It was used to buy a lathe and a bar feeder - which will be used to make the tube couplings. But when the lathe is functioning it generates oil mist, which can be dangerous for the workers, so to protect them, oil mist extraction equipment was needed. In addition, two types of measuring instruments were also included in the budget: a roughness gauge and an optical gauge.

"When the ministry official came to see how we were using the grant, he sat there wondering. I asked him, is something wrong? He said: machine numbers, prices, everything is right, it's very rare to be so good", recalls Katalin Hegedűs.

When we pointed out that this is not the way EU funds are used in Hungary, she said: "It never crossed my mind to cheat. I can't lie either. My mother instilled in me that we don't lie, we don't cheat, and we don't steal. That's the basic story. It's called the Ten Commandments. I've instilled that in my children."

And how the Kádár regime and the post-regime change loophole system that was based on the principle "let's fix it the smart way", did not destroy this teaching from home, we will quickly get the answer to that. Katalin Hegedűs essentially did not live at home until 2011. She was born in London and came home to Hungary for a temporary period at the age of six and then moved to Italy, where she lived for 27 years. Despite this, she grew up with Hungarian folk tales, which did not teach her to steal, cheat and lie.

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As women in a male-dominated world

But how does a woman feel in this essentially male-dominated industry? “My colleagues tell me that my sign in the kindergarten could have been a lathe machine,” she says with laughter. It also helped that she was surrounded by men in her years of trying to make it in the workplace, thanks to her father’s job. But she says it also takes psychological skills to stand in the gap as woman in this environment. She says that once you have references, doors open for you, but in the beginning it happened that the first impression of her interlocutor was: “She’s a nice woman, but she must be empty-headed.” “But if I can prove that I know what I’m doing, they’re more willing to negotiate with me because I’m more interesting to meet than the hundredth guy. So if someone can break into this male-dominated world, benefits of a great advantage,” she shares her experiences.

She didn’t even know what she would produce when she saw the EU tender, she was only sure that no matter what, she would switch to production.

Today, NeWeld Kft. is able to meet extremely high expectations and has become a sought-after automotive supplier over the past four years. The company’s net turnover this year reached 2.2 million euros.

The story of Katalin Hegedűs is also worth recording because, although there have been numerous attempts in recent years to encourage girls to choose careers in engineering and science, there has been no significant change. A recent representative survey shows that engineering and technology careers do not attract girls because of a lack of supportive environment. The survey also revealed the reasons why: girls suffer from a lack of self-confidence and feel that they would be inherently unsuitable for such a field.

But the responses also revealed a lack of female role models. Although the EU project to expand production was not designed to promote women’s opportunities in technical field, the success of NeWeld Kft. makes Katalin Hegedűs a role model for the younger generation of women..

Dóra Ónody-Molnár

Medication development

A Hungarian invention could ease the pain of millions

A new Hungarian medicine, developed with EU funding through collaboration between universities and the private sector, could alleviate the everyday pain of 1 percent of the world's population, which is around 80 million people.

Through inter-institutional cooperation and a high level of transparency, a consortium of medical universities and companies has spent HUF 1.4 billion of EU funds from the Széchenyi 2020 program (project code: GINOP-2.2.1-15-2016-00020) on medication development. But what is this innovation all about? Today's prescription and over-the-counter painkillers, such as those shown in TV commercials, are all based on the same two mechanisms of action, but there are countless chronic, neurological pain conditions for which they are ineffective or only moderately effective. In this case existing medications would have to be used for such a long period and at such high doses that they would already cause a lot of side effects. We are talking about neuropathic pain, which occurs for example as a result of nerve damage caused by an accident or surgery, sensory nerve damage associated with diabetes or certain drug treatments, or chronic arthritis. It affects 1 per cent of the population worldwide, usually permanently.

Originally discovered and designed at the Institute of Organic Chemistry at Semmelweis University (SE) more than 10 years ago by Professor Péter Mátyus, the compound, code-named SZV-1287, which combines several active components in a new way. Since 2012, under the leadership of Professor Zsuzsanna Helyes, the staff of the Chronic Pain Research Group of the Institute of Pharmacology and Pharmacotherapy, Faculty of General Medicine, University of Pécs (PTE), has identified and demonstrated the compound's efficacy in several chronic neurological and inflammatory pain models, for example, in pain conditions for which no effective analgesic is currently available.

Could be a breakthrough

The EU project, which ran between November 2016 and November 2022, was therefore based on the development of this patent - based on an original discovery by PTE pharmacologists and SE chemists - in a broad collaboration.

“This could be a breakthrough in the treatment of chronic neurological pain conditions,” says Zsuzsanna Helyes, “During the EU grant, we performed the full preclinical efficacy and safety pharmacology studies, we determined the fate of the drug candidate in the body, and performed the Phase I clinical trial on healthy volunteers after a single dose. The documentation has been submitted to the National Institute of Pharmacy and Food Safety (OGYÉI). The results are clearly encouraging and offer a unique perspective for drug development at the international level. Further clinical testing of the drug candidate on patients with chronic neuropathic pain will be carried out in collaboration with the partly Hungarian-owned, Vienna-based ALGONIST Biotechnologies GmbH,” said the PTE professor, summarizing their results and future plans in response to our question. On the experience of cooperation between the participating institutions and companies, the expert, who is the project’s technical leader, also explained that the six-year joint application of Toxi-Coop Zrt., PTE and AdWare Research Kft., implemented

All of the painkillers available today are based on the same two mechanisms of action, but there are countless chronic, neurological pain conditions for which they are ineffective or only moderately effective.

within the framework of the Economic Development and Innovation Operational Program (GINOP), is a success story of cooperation between universities and companies, which made maximum use of the complementary knowledge and experience of the experts of the university and industrial partners.

As we learned from Zsuzsanna Helyes, the synthesis and “formulation” of the active substance (it was determined that the medicine can be administered to patients in the form of capsules that dissolve in the small intestine) and the analytical testing of the active substance were carried

out at the PTE. This preclinical phase also included efficacy studies at the PTE and safety pharmacology and pharmacokinetic studies in Toxi-Coop’s laboratories. Once the safety of the drug candidate had been demonstrated, Toxi-Coop Zrt. sponsored the human Phase I studies conducted by the DRC Pharmaceutical Research Centre with the product synthesized by Soneas Kft. and formulated by Meditop Kft. This involved the administration of the drug candidate to healthy volunteers; the results showed that SZV-1287 was safe in humans.

The development, and thus the EU-funded part of the project, was completed in November 2022. The clinical trials will then continue in Vienna, where the drug candidate will be tested on patients with chronic nerve pain to prove the therapeutic effect. This will be followed by human phase III, involving thousands of patients. If the drug candidate also passes this phase, it will be submitted for registration and then can be marketed.

But there is still a long way to go until then. According to the project participants, it will take 3-5 years and a lot of additional resources to develop a breakthrough medication in Hungary. The funding from the European Union was essential for this.

“As medication development is an extremely expensive process, the vast majority of projects launched from university sector cannot proceed after patenting due to lack of resources,” said Zsuzsanna Helyes, “The willingness of the pharmaceutical industry and investors is very low at an early stage, and the only realistic way to achieve commercialization and market potential is through early development with funding from grants. The next step is to prove the efficacy of the drug candidate on humans (Phase II clinical trial) with an industrial partner. Thereafter, the pharmaceutical industry is expected to show orders of magnitude more interest on the use of the compound.”

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Full transparency

Because of the importance of the EU grant, the project participants made a point of using it in an exemplary way. “Procurement, public procurement and publicity have been carried out as required,” the professor added. Among the consortium partners in the project, PTE conducted in total 21, the consortium leader Toxi-Coop Toxicology Research Centre Zrt. (Toxi-Coop Toxikológiai Kutató Központ Zrt.) also conducted open procurement procedures. In compliance with the regulations, they have made the process more transparent by providing continuous reports and contracts, which are available after the end of the project.

Toxi-Coop Zrt. is a nationally and internationally renowned company with specialized laboratories and considerable experience in the field of research. The other two members of the consortium, the Institute of Pharmacology and Pharmacotherapeutics, the Institute of Organic and Pharmaceutical Chemistry, the Institute of Pharmaceutical Technology and Biopharmacy of the PTE and, to a lesser extent, the Institute of ÁOK Bioanalytics and the researchers of TTK

They have made the process more transparent by making reports and contracts available on an ongoing basis, even after the project has been closed.

participated in the project.¹ The third member, AdWare Research Kft. is also essentially unavoidable in the field of services. A small company, the “DRC” Gyógyszervizsgáló Központ Kft., and Semmelweis University participated in the research processes as subcontractors with outstanding representatives of the field, but all other participating companies and their participation and pricing are certified by the publicity of the proceedings.²

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- 1 See the purchase contracts of the public procurement procedure “Procurement of research chemicals, consumables and experimental animals for the University of Pécs within the framework of the GINOP-2.2.1-15-2016-00020 tender” (<https://bitly.ws/WwMI>); (<https://bitly.ws/WwMT>); (<https://bitly.ws/WwPd>); (<https://bitly.ws/WwPs>).
 - 2 See more details on the public procurement procedure launched by the University of Pécs (<https://bitly.ws/WwLB>).

Toxi-Coop Zrt. calculated the total cost of the project at HUF 1 billion 394 million according to the grant contract, of which the EU subsidy rate was 81 percent.³ However, in the case of the work carried out in Toxi-Coop Zrt.'s laboratories, the subsidy rate was 70 percent, meaning that the company itself made a significant contribution to the development.

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3 See Grant Agreement (<https://bitly.ws/WwGq>).

Epidemic prevention

State of the art laboratory in Pécs has been placed on the map of international research

The research team led by virologist Ferenc Jakab and the EU-funded laboratory were in live action during the coronavirus epidemic.

Today, it should come as no surprise that we are living in an era of epidemics. The major epidemics of the past, in particular the recent worldwide epidemic of the coronavirus, have highlighted the threat of infectious diseases and the vulnerability of humanity to them. In recent years, new infectious diseases have also emerged and spread in Hungary in increasing numbers, posing a serious threat to society. A 2015 study by the World Health Organization (WHO) already showed that infectious diseases accounted for almost 20 percent of the 56.4 million deaths worldwide and are the leading cause of death among children under five.¹ The fact is that the development of human civilization and the acceleration of mobility are opening up limitless opportunities for new epidemics to emerge. In other words, as humanity develops, we increasingly have to fight against new or emerging pathogens that are unknown to us.

With the evolution of humanity, we are increasingly confronted with new or emerging pathogens that are unknown to us.

The project entitled “New directions in infectious disease research - infrastructural and scientific development of the biosafety level 4 virology laboratory of the University of Pécs (PTE)” (GINOP-2.3.3-15-2016-00011 project number), funded with 100 percent EU funds totaling the amount of HUF 120 million, was launched by the PTE and its research centre (Szentágothai János Research Centre) in July 2016. The aim was to develop the infrastructure of a virology laboratory with a high level of biosafety and to connect the laboratory to the European BSL-4 laboratory network. It is worth noting that biosafety laboratories are currently classified into four categories (from BSL-1 to BSL-4), the highest of which, BSL-4, is restricted to viruses that cause serious, life-threatening infections, for which neither targeted therapy nor vaccination is available. Not only in Hungary or the European Union, but also worldwide. Research in this field therefore goes far beyond narrow economic or national interest.

¹ See the newsletter of the Department of Medical Sciences of the Hungarian Academy of Sciences (<https://bitly.ws/WxwW>).

There are currently several BSL-4 laboratories in Europe - based on 2021 data - but only three of them are university-affiliated and carry out actual basic and applied research.² The rest are mainly public epidemiological, diagnostic, veterinary laboratories or for-profit, possibly military units. Therefore, the BSL-4 laboratory at the Szentágotthai János Research Centre has contributed not only to the achievements of national education and research, but also to the international embeddedness of Hungary and the research group of the PTE and the National Laboratory of Virology.³

Epidemic prevention

Thanks to the EU investment, more research jobs have been created, and the laboratory is an active participant in national and international research training and post-graduate education. And by joining the European network, PTE has become part of the BSL-4 community of laboratories, playing an important role in joint grant activities and in the development and implementation of research strategies.

In addition, the establishment and development of the BSL-4 research laboratory was tested in the field during the coronavirus epidemic, as well as afterwards. The laboratory not only carries out basic and applied research, but also participates in the work of the Hungarian defense and security services, that is in the epidemic protection of Hungary, when necessary. The research

In Europe, there are currently only three BSL-4 laboratories affiliated to universities and carrying out actual basic and applied research.

group is also involved in several applied research projects aimed at developing and verifying tests and active substances that can be used in human diagnostics and patient care. In this way, the laboratory has also played a significant role in research, development and innovation (R&D&I) activities.

Although Professor Ferenc Jakab, the technical leader responsible for the EU project implemented in 2016-2017, declined to comment for our publication, in one of his scientific publications in 2021 he wrote about the importance of the lab and their work: “One of the goals of our research is to detect known and new pathogens from samples collected from Hungary and abroad (through an extensive international collaboration network). (...) Another main goal is to help practical medicine to be able to fight new and re-infectious diseases with the necessary strength. Accordingly, we place a very strong emphasis in our studies on the discovery and testing of potentially new antiviral agents and we also want to be involved in the laboratory phases of vaccine development projects.”⁴

2 Ferenc Jakab: *Epidemic, virus, National Laboratory of Virology* [Járvány, vírus, Virologiai Nemzeti Laboratórium] (<https://bitly.ws/Wz6E>).

3 See more about the National Laboratory of Virology (<https://bitly.ws/Wz8x>).

4 Ferenc Jakab: *Epidemic, virus, National Laboratory of Virology* [Járvány, vírus, Virologiai Nemzeti Laboratórium] (<https://bitly.ws/Wz6E>).

The BSL-4 laboratory occupies a total area of about 100 square meters in the research centre's high-security building. This includes the actual BSL-4 work room as well as the associated changing rooms, airlock system and decontamination shower. The laboratory complies with the international requirements of the US Centers for Disease Control and Prevention (CDC) (BMBL 5th Edition) and was designed during the EU project to meet all the criteria for BSL-4 certification.⁵

Individual solutions

The laboratory has a number of unique architectural, engineering and laboratory technology systems, such as hermetically sealed steel doors with electromagnets, the aforementioned airlock access, the isolated laboratory area, and other high-security technologies. In addition to the specific infrastructure elements already mentioned, the EU funds used were used by the PTE to purchase equipment such as a disinfection machine, microscope and ultracentrifuge through an open procurement procedure.

In all cases, the winning bidders for these procurements were well-known companies in the scientific, medical and diagnostic equipment distribution market, and the contracts are available to the public on the university's website. The transparency of the procurement process is also demonstrated by the fact that the only bidder in the open procedure for the procurement of "table-top ultracentrifuge rotors" was TS Labor Kft., a well-known manufacturer of laboratory diagnostic equipment, but did not win.⁶

The laboratory also meets international requirements set by the US Centers for Disease Control and Prevention.

Marianna Tóth-Biró

⁵ See more about the BSL-4 Laboratory (<https://vnl.pte.hu/hu/BSL-4>).

⁶ See the results of the public procurement procedure "Procurement of research equipment within the framework of the GINOP-2.3.3-15-2016-00011 tender of the University of Pécs" (https://kozbeszerzes.pte.hu/110_2016).

EU funding for robotic surgery

DaVinci in the operating room

Robotic surgery, previously considered science fiction, will lead to faster and less complicated treatment for oncology and other patients, and will increase the competitiveness of Hungarian medical education - as well as alleviates the shortage of doctors.

In the public discourse, EU funding - at least in Hungary - is most often associated with some kind of corruption context. Unreasonable amounts of paving stones, a 40-centimetre-high lookout point, a “singing” fountain in front of the mayor’s office, a family house built as part of a tourism development and inhabited by the family of a locally influential politician - most news stories are about such cases. More recently, it’s the tree-less canopy walkway that’s been the cause of much consternation. There is no doubt that few EU-funded projects in our country have not been a waste of billions poured into concrete, but have been able to respond to a serious social or economic problem in a way that has reversed negative trends.

One of the exceptions is the project entitled “Introduction of Robotic Surgery in Hungary” (ID number: EFOP-5.2.6-20-2020-00014), which was launched by the National Institute of Oncology together with its consortium partner, the Jahn Ferenc South Pest Hospital and Outpatient Clinic, and implemented under the Széchenyi 2020 program. The European Union has provided HUF 1.3 billion in non-reimbursable funding to help improve the chances of recovery and life expectancy of Hungarian patients through robot-assisted laparoscopic surgery. Robotic surgery involves a much smaller surgical wound, significantly reducing bleeding and preserving tissues, nerves and blood vessels more effectively. All of these factors make recovery incomparably faster than with conventional surgery. Not only can the patient go home sooner, but the risk of complications is significantly lower.

Without tremors

Many surgeries that used to take months to heal, with pain and side effects, have now become routine procedures that can be performed in a single day surgery. This is particularly important as urological and oncological diseases are becoming more common in younger age groups. Thanks to early detection and a robot-assisted, precise surgical procedure, the chances of a full recovery are much higher. The robotic arms are capable of much finer movements than the human hand, and the device can filter out tremors and work very precisely in tiny areas, while the doctor can see the surgical site in three dimensions with a pin-sharp image.

After robotic surgery, not only can patients go home sooner, but the risk of complications is significantly lower.

What is it like to work with this tool? “It’s almost like a computer game console” - said surgeon András Papp to the lifestyle portal Egy.hu a few months ago. According to him, just as the doctor controls the console, the robot arms move inside the body cavity. Parents of adolescents addicted to games can take comfort from the fact that someday the ability to operate controllers can be useful in responsible work. But back to the operating room: another advantage of this procedure is that the surgeon does not have to put on surgical gowns and sterile gloves, as the robotic arms are in contact with the patient and those must be sterile.

Another huge advantage is that the new technology allows the surgeon to work comfortably in a seated position, as opposed to traditional operations that take hours and require considerable physical stamina.

Pioneering doctors

The successful EU tender required two pioneering doctors who backed the project with their credibility, professional dedication and knowledge. Péter Tenke, Professor of Urology, Head of Department at the South Pest Hospital, and member of several national and international scientific societies, felt many years ago that minimally invasive techniques were developing at an unstoppable pace. This is why he travelled to Leipzig and spent months in training to learn the laparoscopic technique and then brought it back home. This procedure has been used in thousands of operations at the South Pest Hospital over the last ten years. Professor Tenke’s dream, however, was the robot, which is in fact a further development of laparoscopy, and he did not stop until he brought home this revolutionary procedure.

The DaVinci robotic surgical system has been available in the United States and Western Europe since 1999, and in recent years in regional countries. In Hungary, however, the distributor did not intend to enter the market because they did not see a potential in this market. And this is where the other committed doctor comes in: Professor Csaba Polgár, Director General of the National Institute of Oncology, who has had an ambition for at least ten years to introduce robotic surgery in tumour surgery.

Those who persevere in the pursuit of their goal find it easier to see the opportunity: three years ago, the distributor opened up to the Hungarian market through a local representative. The Ministry of Human Resources, which is also responsible for healthcare, supported the project, which is how the Oncology Institute and the South Pest Hospital, organized in a consortium, were able to successfully bid for the two robots.

The new technology allows the surgeon to work comfortably in a seated position.

The first robotic surgery in Hungary was performed at the Oncology Institute at the end of January 2022, a date of medical history. Since then, more than a thousand surgeries have been performed in Hungary with these state-of-the-art devices, mainly in abdominal, urological, gynaecological, head and neck and thoracic surgery. The procedure means at the same time an innovation in patient care, medical education and clinical research. In other words, thanks to a gentler procedure, it will certainly have an impact on the health indicators of the Hungarian population. But thanks to the success of the project, this modern 21st century procedure is now being used in more provincial hospitals, with the help of new EU funding, which is also reducing regional disparities.

The first robotic surgery in Hungary was performed at the end of January 2022, a date of medical history.

The design of the robot structure allows it to be used in education and post-graduate training. In the long term, this structure will enable Hungarian institutions to become European training centers. On the student side, this means that thanks to state-of-the-art equipment, medical training in Hungary will remain attractive.

Following a recent EU grant, robots have also started working at Semmelweis University and the Clinical Centre of the University of Pécs. And robot surgery is no longer just for male doctors - the first ENT (ear, nose and throat) surgery was performed by a female doctor in Pécs.

Reluctant public institutions

The fly in the ointment is that the Hungarian institutions that successfully implemented the project declined to be interviewed by our staff about their daily work and personal experiences. But the use of EU funds should presuppose openness. When we asked, they simply said: “given that the project was closed months ago and we held a public press event on the subject, we have given a full response in the subject, and we do not wish to take up the opportunity at this time.”

Dóra Ónody-Molnár

Injection molding at the highest level It is more spacious outside

The Balatonfüred-based company, which is now successfully competing with its American and Japanese rivals, manufactures consumables for medical devices used in laboratory tests.

When a business reaches a new stage, management has to decide whether to invest to grow or to stabilize existing positions. However, investment is often so costly that it requires courage and a willingness to take risks, as the money invested may not pay off. There is also the question of where the necessary resources will come from, meaning whether the company will use its own capital or seek credit. There is a third possibility: under certain conditions, EU development money in the form of non-reimbursable grants can spare domestic companies with less capital from the risk of taking risks.

And if the EU “invests” well, it gets its money back many times over: new jobs are created on a sustainable basis, tax revenues increase, and the innovation performance of Hungary and the EU more broadly improves. In 2015, such an investment was the HUF 208 million EU grant for a large Hungarian-owned company, the 77 Electronics Group, to improve its production capacity (the project is entitled “Production capacity improvement at 77 Ing Vagyongazdálkodási Kft.” and its number is GINOP-1.2.1-14-2014-00188.)

Based on research and development

77 Elektronika (Electronics), a 100% Hungarian family-owned company, was founded in 1986. The company has nearly 800 employees and is present in over 100 countries with its products. One of the company’s owners is Sándor Zettwitz, mechanical engineer and Gábor Dénes Prize-winning inventor. The healthcare entrepreneur, who turned 90 this year, is still actively involved in the company’s life. In several interviews, he has stressed that he considers research and development to be essential, which is why his company devotes 6-8% of its revenues to this area.

77 Elektronika manufactures mainly proprietary blood glucose monitoring systems, urine testing devices and reagent materials for personal and laboratory use. This innovative, research and development-based company was the beneficiary of a one-year EU project launched in 2015, under which 77 Ing Vagyongazdálkodási Kft, which produces consumables for the machines manufactured by 77 Elektronika, has developed a machinery fleet to meet increased

orders (77 Elektronika is the developer, manufacturer and distributor of the products within the group, while 77 Ing Vagyazdálkodó Kft. is responsible for the production of consumables).

„When one thinks about where to go from here, one might look at what he or she can do using only his or her own resources,” says Gábor Bayer, development director of 77 Elektronika. But in 2015, the company reached a turnout, and growth could only be achieved with a major investment. “We were confident of a return on investment, but at that time it was not yet visible.

“The potential was big, but the risk was also big. We were hesitant about how to expand.”

The potential was big, but the risk was also big. We were hesitant about how to expand. We knew that sooner or later we would have to act,” recalls the director.

Why has this situation of uncertainty arisen? In 2015, 77 Elektronika had a then-fresh medical technology innovation to help “automate the analysis of urine sediment”. This technology involved a special, transparent, single-use, patented tool called a cuvette. Its bottom and top are created by injection moulding equipment, and the two are welded together to form the measuring chamber. When the urine sample is poured into the cuvette, it is centrifuged and the sediment is then spread in the cuvette. This is placed under an automated microscope, which takes high-resolution digital images at multiple positions; these are evaluated using artificial intelligence. This tells the patient what is in their urine. This is the so-called Urised technology, which won the Innovation Grand Prize in 2016.

Production line development with risks

However, in order to be able to produce this product in the quantities required to meet the increased demand, high-capacity injection moulding machines were needed. In addition, the bottom and top of the cuvette had to be joined by ultrasonic welding and then placed in a bay. This bay is the product itself, which is purchased by hospitals and other healthcare institutions.

It was at this time that an EU tender was launched. “For the modern, high-capacity, professional production of the consumables in question, we needed the machinery fleet that we built partly with this HUF 208 million EU grant,” says Gábor Bayer. Setting up a cuvette production line is not an overnight process, as you have to build the hall, order the machines - which can take months - and then put them into operation. This takes well over a year.

„When a technology suddenly takes off, even though it seems to be becoming more and more successful, it is difficult to predict the arch of an upward curve and know where you will be in two years’ time, and not be wrong. We had hoped for a good future, but we could not be sure, because it was useless for us to sell a lot of equipment if we could not add a cuvette. There is nothing more unpleasant than having orders but not being able to serve our partners. On the other hand, if we develop very expensive production line and there is overcapacity and the production line is underutilized, we could pay a very high price,” says the development director,

explaining the considerations. He adds that it is no coincidence that the entry requirement for such EU tenders is that the applicant must have been operating profitably for several years. This gives the citizens of the European Union, who are paying the budget, some guarantee that the money allocated for development will be well spent and that the project will be successful.

It's no coincidence that the entry criteria for EU tenders are that the applicant must have been operating profitably for several years.

In hindsight, we know that the grant has been used in many ways. On the one hand, Hungary's export incomes have increased through the "urine sediment analysis" machine sold by 77 Elektronika to countries around the world. Secondly, the construction of the machinery created jobs temporarily, but the expansion of capacity also increased the number of employees in the company in the long term. At the start of the project in 2015, 77 Ing Vagyongazdálkodási Kft. started from scratch, but today the Balatonfüred factory employs 90 people. Eventually, if the company is able to steadily fill orders, the research and development department will have more money to spend, which could lead to the development of new equipment.

77 Elektronika sold well over 100 million cuvettes in 2023. "That means that four to five urine sediment measurements are being made somewhere in the world every second with the technology we have developed," says Gábor Bayer.

Convinced the skeptics

"When our competitors heard what we were doing, we heard back from several places that it was impossible to do it at a good technical standard. I said, "Let them know that we have another technology in the making! In 2007, we presented this solution for the first time at the biennial Euromedlab trade fair. Our American competitor congratulated us, but our Japanese competitor said they didn't believe in it and we would only convince them when we had sold at least 100 units. Well, after eight or nine months, I could have contacted them, because we had sold the first 100 units in that time," recalls the director.

Back then, many people thought that such a small Hungarian company would not be able to compete on the world market with the big Japanese and American competitors. Had the machinery for mass cuvette production not been built, the pessimists might have been right. The 77 Ing logo is also a reference to the cuvette. They export to nearly 100 countries and have sold more than 20,000 units of their proprietary technology. And that's just the products sold with their own logo, because they also sell the technology to a huge network of distributors who bring all kinds of equipment to the labs.

This joy is also mixed with bitterness, as only fifty of the 20,000 devices sold worldwide have found a buyer in Hungary. It is true that there are no more than 100 laboratories in this country

that would require automatic equipment. “Of these fifty, we sold some directly, but most of them were sold to our foreign partners, leaders in diagnostics. How much nicer it would be if a car from the courtyard of 77 Elektronika would take the equipment directly to the hospital. Of course, the fact that the large distributor partners also sell the equipment means that it is still a Hungarian product. 33 years after the change of regime, we have not yet reached the point where we believe that the Hungarian industry is really capable of producing world-class products. But we should get used to the idea that we can indeed produce world-class products in a certain product class.” – states the company’s development director.

33 years after the change of regime, we have not yet reached the point where we believe that the Hungarian industry is truly capable of producing world-class products.

Dóra Ónody-Molnár

Nanolab in the Transdanubia region

Balaton sludge under the microscope

The expertise and the research needs were there before the development - only the tools were lacking in the whole of Transdanubia. Then, in 2018, with EU funding, the electron microscope laboratory was completed on the campus of the University of Pannonia in Veszprém.

Nothing underlines the need to expand research capacity in the natural sciences more than this year's Nobel Prizes. Two Hungarian-born scientists have been awarded the most prestigious scientific recognition: Katalin Karikó (shared with fellow researcher Drew Weissman) for “the development of mRNA vaccines”, and Krausz Ferenc and two colleagues (Pierre Agostini and Anne L’Huillier) for “attosecond light pulses”. Although none of them completed their research careers in Hungary, they started their careers here, and the Hungarian public education and university environment provided them with the foundations.

So the University of Pannonia also had something to build on, as its electron microscope laboratory was built with HUF 924 million of non-refundable EU grants (the project is called “Establishment of an electron microscope laboratory” and its number is GINOP-2.3.3-15-2016-00009.)

In how many EU projects have we seen that the institutions buy something with the funding and then nobody uses it because there is no one with the right skills and expertise, so the expensive equipment is left gathering dust in a corner waiting to be scrapped? If there is a counter-example to these sad cases, the Nanolab project at the University of Pannonia is certainly one. This modern tool has opened up new research dimensions.

Well argued

“This tender was launched in 2015 specifically for the development and creation of research infrastructure, and universities and research institutes could apply without any particular restrictions. Of course, everyone has to fight their own battles at the university first, to understand why the project is needed. Fortunately, we were able to argue well that there are many institutes and research groups at the university whose research would be fundamentally helped by such a laboratory”, recalls Mihály Pósfai, Széchenyi Prize-winning Hungarian geologist, mineralogist, university professor and technical leader of the project.

When we talk about microscope, the image that comes to the layman's mind is that of the classic instrument, with an eyepiece, a slide table and some kind of light source. Although the electron microscope is similar in many aspects to the light microscope, it works on a different

principle: it uses a high-energy electron beam to form an image, rather than light. The electrons are focused by electromagnetic lenses rather than glass lenses, and there is a large vacuum inside the instrument, as the electrons would be scattered through the air. The electron microscope is therefore a complex, large, expensive instrument that allows the structure, composition and morphology of solid materials to be studied at the nanometre, and in some cases atomic, scale.

The electron microscope is a sophisticated and expensive instrument that allows the structure, composition and morphology of solid materials to be studied at the nanometre or even atomic scale.

“Our university has a long tradition of chemical research. For example, many of our researchers are working on nanoparticles, catalysts, composites, and research in bio-nanotechnology, environmental chemistry and environmental biology that requires electron microscope. Most of all, we had the scientific base here in our Environmental Mineralogy Group, because we already used electron microscope a lot. It’s true that before this project, due to the lack of proper infrastructure, we didn’t really have a research group, just one or two students with whom we could do high quality work,” says Mihály Pósfai. “They had to travel to Budapest almost every week, to the Institute of Physics and Materials, but they also went to Ljubljana, Cambridge, wherever they had access to electron microscopes.”

Pósfai also explained that there are basically two types of electron microscopes, and most researchers encounter the so-called scanning type. In this, an electron beam scans the surface of the sample - each pixel forms an interaction between the beam and the sample. The return signals are detected and then assembled point by point. Stones, bugs, anything can be examined in this way. The project also included the purchase of a state-of-the-art scanning electron microscope.

Thickness in tenths of a micrometre

The other main type is the so-called transmission electron microscope. As we learned from Mihály Pósfai, this requires a sample with a thickness of a tenth of a micrometre, through which the electron beam can pass and form an image. “This instrument has opened up new dimensions, as it can create an image of certain materials at atomic resolution and at the same time their elemental composition can be determined” adds the technical leader. His words reveal that the project was such a niche investment that, until its completion, there was no transmission electron microscope of its caliber in the whole of Transdanubia. This instrument will open the way for countless new basic research projects.

When the application was submitted, the concept was that the university had the need to use the lab, but that it would also be able to provide a national service for basic and applied research. When the laboratory was completed in 2018, it was immediately found by research groups working on earth and environmental science topics outside the University of Pannonia. For example, groups from the Institute of Geology and Geochemistry, formerly part of the MTA,

the Natural Sciences Research Centre, ELTE, the University of Szeged and the University of Miskolc immediately contacted them. Foreign collaborations have also expanded. There is close cooperation with the microbiology group at the University of Bayreuth in Germany, the CEA Cadarache Research Institute in Provence, and there are joint projects with the universities of Vienna, Warsaw and Cambridge, as well as with the Jožef Stefan Institute in Ljubljana. Following a workshop organized last year, they started joint research with a group from the University of Bochum. So since the opening of Nanolab, the new laboratory has been a hive of national and international research activity.

Thanks to the intensive research work in Nanolab, the University of Pannonia's Institute of Bio-Nanotechnology and Technical Chemistry, as part of a consortium, won a prestigious grant this year under the EU's Horizon Europe research and innovation framework program. This has brought together 18 European institutions in a consortium to form a network of earth science imaging laboratories. From Central and Eastern

Since the opening of Nanolab, the new laboratory has been a hive of domestic and international research activity.

Europe, only one Czech institute and the University of Pannonia have been selected, the others selected being big names from the West. Now, if someone wants to measure or do research with an electron microscope, they can choose the most suitable one from the 18 consortium members, contacts them and carry out the measurements together. The project is therefore a source of new topics, it also strengthens networking and the lab that carries out the measurements receives financial support. (For the time being in Hungary, the European Commission has suspended EU financial commitments to universities outsourced to foundations, under a decision by the EU Council, which also affects Horizon researchers and Erasmus mobility programs.)

Attractive individualities

“By international comparison, this is no longer a state-of-the-art instrument, and we will not win a Nobel Prize for our research. But we do have special virtues: we have unique and interesting subjects, and we are making the most of what this microscope can do. That's why we are often approached by people whose universities have electron microscopes that are even cooler than ours,” - sums up the professor.

In addition to research, Nanolab has another activity: it also does service work for companies, which can increase its revenues. Mihály Pósfai says that this goal has been achieved, although corporate interest could be livelier. Many companies still don't know what a transmission electron microscope is good for.

„My colleague is doing measurements for a pesticide company. When something doesn't work out as the manufacturer originally intended and the reason for that is the properties of micrometre or smaller solid particles or crystals, our measurements are useful. We have also

been visited by companies dealing with metals. They wanted to know what inclusions are in steel and why welding fails. In another case, we tested nanometal, which is used to purify contaminated water below the surface, and the company that commissioned us wanted to know more about the product they were buying,” explains Mihály Pósfai, whose research team is now mainly investigating the sludge of Lake Balaton. The composition of the sludge has already been studied by the world-famous Hungarian geologist Lóczy Lajos. For over a hundred years, it was feared that the lake would silt up, and that the bed would fill with the sludge that the Zala River would bring in. They were investigating how the sludge from Lake Balaton, which is essentially water stone, separates from the water and forms crystals.

This is an interesting question from a basic research point of view: there are solutes in a liquid that suddenly form a solid material, a process that requires jumping over an “energy barrier”. For this reason, these little “rocks” are always looking for a surface to fall-out on. “Lake Balaton is special water, because it is shallow, so it is always slightly agitated, and it turns out that there are always nanometre-sized clay particles floating in the lake. These results are also referred to in work on how to cement and bind sand,” says Mihály Pósfai, pointing out how closely our everyday life is linked to modern scientific work.

The research team’s main focus is now on the relationship between algal blooms and sedimentation in Lake Balaton. A prerequisite for algal blooms is the availability of sufficient phosphorus. However, this phosphorus can only come from the sludge, so they are trying to determine which minerals it binds to, in what form and what processes might lead to its release.

The project is a source of new topics, it also strengthens networking, and the laboratory carrying out the measurements will also receive financial support.

Dóra Ónody-Molnár

Solar panel investment

Visible and transparent

The Budapest University of Technology is set to save more than HUF 100 million thanks to an EU project to use solar panels to cover part of the energy needs of its university buildings.

In five years, more than 2000 megawatt-hours of energy were produced by the solar panels at the University of Technology and Economics of Budapest (BME), saving the University more than HUF 131 million in energy costs by the summer of 2023. Under the KEHOP 5.2.11-16-2016-00047 project “Installation of photovoltaic systems on the buildings of the Budapest University of Technology and Economics”, the university was awarded a non-refundable grant of HUF 250 million in 2017. From this EU - cohesion - funding, a total of 1,618 solar panels and 25 inverters, that are devices for the conversion of solar energy, were installed on eight buildings of the BME (Bercsényi Dormitory, Baross Gábor Dormitory, Wigner Jenő Dormitory, AE, ÉL, St, J and I buildings).

Our questions about the project were answered by BME’s Asset Management Directorate. Anna Nagyné Szabó, Head of the Investment and Technical Department, wrote: “The university’s aim with the development was on the one hand to reduce the expenditure on electricity, to operate the buildings more cost-effectively, and on the other hand to increase the environmental awareness of the employees and students of the university, to reduce carbon dioxide emissions and to promote sustainable development.”

Explanations based on personal experience

While around 2017-2018 solar energy was not as much of a focus in Hungary as it is today, the BME had a conscious goal to educate the residents of the dormitories involved in the project, the students and employees of the university, to deal with the topic of sustainable energy sources based on their own living and working environment. This implementation and project management method is why the BME project can be considered as a good practice in the use of resources by the EU supervisory bodies.

The BME project is considered by EU monitoring bodies as a good practice in the use of resources.

The investment is under a sustainability period until November 2025, which is why the EU monitoring authority is also monitoring the return on investment. BME reported on its website in June 2023 that on 31st of May, the European Commission representative Sofia Alves, Director of DG REGIO, attended a presentation of the project and visited the solar panels installed on the roof of the University's J building.¹ The project is easily “verifiable” from a height, as 150 panels have been installed on the Bercsényi Dormitory, 108 on the Gábor Baross Dormitory, 191 on the Jenő Wigner Dormitory, 181 on the BME Informatics building and 200, 468, 195 and 125 on the AE, ÉL, ST and J buildings on the university's central campus.

The BME conducted an open, albeit unadvertised, public procurement procedure for the project.

However, for the institution, it was not only visibility that was important, but also transparency. “Within the university, the Centre for Innovation Management and Cooperation in Higher Education (CIMC) contributes to the monitoring, preparation and management of the university's research, development and innovation projects, both national and international, and to the creation of the necessary regulatory environment. It manages the tenders assigned to the CIMC, participates in the preparation, planning, contracting, overall project and financial management, accounts and contract amendments, and maintenance reports, thus ensuring the transparency of the entire tendering process”, the Head of the Investment and Technical Department of the BME wrote in response to our question.

The BME conducted an open, albeit unadvertised, public procurement procedure for the implementation of the project, and the selection criteria were applied in accordance with the applicable legal and tender rules. In 2017, the same four companies competed in the public procurement bid: Tiszta Energiák a Földért és az Emberért Kft., Thermo Épgép Kft, Szabau Invest Kft. and Polar-Stúdió 2 Kft. The latter is a family-owned business that has won several national public procurement procedures and EU projects, and which carried out the solar panel installation at the BME's central site, including subcontractors for the work.

Suspicion and refutation

The contract for the construction of the dormitory buildings was awarded to Tiszta Energiák a Földért és az Emberért Kft. (Clean Energies for the Earth and People Llc). In 2015, Hadházy Ákos, Member of Parliament, filed a complaint against this company in connection with another project, suspecting that they had entered the competition together with several other companies and had essentially divided up the national and EU tenders for the construction of solar power capacity between them.² However, at that time, around 2015 and early 2017, few

1 See on this: *Sustainability at BME - not just words* [Fenntarthatóság a BME-n – nemcsak szavakban] (<https://bitly.ws/WzrC>).

2 Miklós Hargitai (NOL.hu): *They would keep the sun for themselves - a story about the nature of the Orbán government* [A Napot is megtartánák maguknak – sztori az Orbán-kormány természetéről] (<https://bitly.ws/Wzvtv>).

The project was so successful that the university has made a lasting commitment to green energy investments.

Hungarian companies had the capacity and experience to make such investments, which is institutional solar panels and solar power installations, and so real competition in Hungary could only start later. Tiszta Energiák Kft. denied the allegation. The company has been operating with essentially uninterrupted success in the Hungarian - and German and later Romanian - solar market since its establishment in 2009, meaning that it already had significant experience at the time of the BME EU project.³ In 2016, Tamás Mokry, manager of Tiszta Energiák Kft., said that “there is no suitable contractor for even a fraction of the solar projects planned for 2017-2018, so the question will not be the price, but who can deliver on time and with the right quality.” Ákos Hadházy told White Book that the authority did not investigate the merits of his complaint, so no investigation was launched in the case.

By all means, the prices of the BME’s 100% EU-funded project, as well as the selection criteria for procurement, can still be found in full on the Public Procurement Authority’s website.⁴ And the project itself was so successful that the university has made a lasting commitment to green energy investments.

Marianna Tóth-Biró

3 For more information, see the website of the Clean Energies for the Earth and People Llc. (<https://www.tisztaenergiak.hu/rolunk/>).

4 See the results of the public procurement procedure for “Installation of photovoltaic systems on the buildings of the Budapest University of Technology and Economics in the framework of the KEHOP-5.2.11-16-2016-00047 project” (<https://bitly.ws/Wzvb>).

Car washes in the construction industry

The catalyst for becoming a real company

For a small construction company, it can be particularly important to be independent of subcontractors, as fierce competition means that their unpredictable performance - and the resulting delays - can lead to serious losses. But doing so is not cheap. The MOJA-Perfekt Kft. in Szekszárd has been provided with financial backing from the European Union.

The story of Péter Jávör and Péter Molnár, founders and owners of MOJA-Perfekt Szolgáltató és Építőipari Kft. (MOJA-Perfekt Service and Construction Llc.) in Szekszárd, can best be described by the classic story of “the poor child goes to the big city”. “We started as workers. Two shovels, one bucket. That’s how it started, and we worked on our own in our own business. We believed we could do better, so we reinvested all our money into it. And that’s how besides the bucket we have purchased a car. It was a huge step. And the next was when we hired an employee,” says Péter Jávör, listing the first milestones on the bumpy road of starting a business from scratch.

Initially, they specialized in masonry: they did paving, sidewalks, and small jobs. Around 2006, Jávör had the idea to build a car wash. As he recalls, his partner just kept thinking, “OK, but how? There were already tenders at the time, but only 10 percent of the total budget for the project was available as a grant. “We still experienced our successful application as a miracle. So we built the first car wash in Baja. That’s when we realized that we could do it; we knew how to do it,” he says.

According to Péter Jávör, the car wash was a kind of “trigger” for him; moments like this come from time to time, something starts to stir in his head, it becomes an idea, then it develops into a concrete plan, and then he doesn’t let go of it until he puts it into practice. One such idea in the nineties was that his wife should open a tanning salon - at that time, it was not a common service. This studio is now celebrating its 27th birthday. And so the idea of the car wash came along, and he kept insisting with his co-owner until they started to implement it.

He says that a carwash should be thought of as an iceberg: the superstructure is visible above the water, but the essence is below. One of the key issues is water treatment, because water is both valuable and, if not treated well, is a burden on the environment - it produces industrial quantities of wastewater that need to be disposed of. Then there’s floor heating; the concrete in the carport has to be heated to at least four degrees Celsius to prevent the water from freezing in winter, which can be an accident hazard.

Getting rid of defenselessness

To solve these problems they developed machines and techniques themselves, and MOJA-Perfekt Kft. started to build car washes. Orders started coming in, and after a while space became a problem. “We had a warehouse in my partner’s father’s shed, but we outgrew it. It was also a problem that for some jobs we had subcontractors and were at their mercy. If they said they would come on a Tuesday, we couldn’t be sure which Tuesday they meant. And two- or three-weeks’ delay is a big deal in a highly competitive situation like the construction industry,” continues Péter Jávör.

So the two owners started to think about how to reduce this defenselessness. One solution was to expand around 2010-2011 and find reliable staff. As they point out, they are really staff, not employees, and they all know each other, each other’s families and children well. As they put it, their company is “like a small island in a sea of construction”. The employees believed in their plans and ideas. In Szekszárd, word of mouth spread that MOJA Kft. was a good place to work, people applied on their own, no recruiting was needed.

A carwash, he says, should be thought of as an iceberg: the superstructure is visible above the water, but the essence is below.

Over the years those have stayed who love to learn, are precise and ambitious. The staff takes the initiative for “team-building” activities: sometimes a joint chowder cook-off, sometimes a family picnic. “For us, a company party is always a family party. It’s not a men’s party, and it’s not about alcohol.” As far as alcohol is concerned, the company has a zero-tolerance policy anyway, with no second chances. This is worth emphasizing because in the construction industry, which is short-staffed, drinking on the job is a huge problem. “I’ve heard of a case where the foreman said we will make a breathalyzer test every morning, and half the team quit the next day,” - Péter Jávör giving an example of the industry’s problems.

Going back to the early 2010s, they were already “armed” with good locksmiths, so the manpower was there to make the metal structure of the car washes by MOJA-Perfekt Kft. and bypass subcontractors. It was at this time that they heard about the tender for the construction of the workshop and the purchase of equipment, thanks to the fact that they had already received a small grant for the construction of the car wash in Baja and had been aware of the tenders. But one thing caught them at first: the conditions included the obligation to take out a loan to obtain the grant, which was contrary with the company’s philosophy.

“My business partner and I have different habits, but there are a few principles that we agree on. One is that paying wages and contributions always comes first, and the next is that we don’t owe anyone anything. If we have money, we buy, if we don’t, we don’t buy anything,” says Jávör. “In other words, borrowing was unknown territory for us.” However, as the EU application was based on 10 per cent self-financing, 30 per cent loan and 60 per cent non-repayable grant, they finally went for it and submitted it (the project is entitled “Construction of a work hall and purchase of new equipment for MOJA-Perfekt Szolgáltató és Építőipari Kft. for the new plant in Szekszárd, project number GINOP-1.2.3-8-3-4-16-2017-00341). Thanks to this, the hall of

the locksmith's shop was completed and the money was also allocated for the construction of office space. This investment has given a huge boost to the company, which has since not only become independent of subcontractors, but has also expanded its machinery.

The great leap forward

“With this HUF 117 million grant, we have made a big leap. We had good stuff before, but now we finally have a workshop and machines that can be a real treasure in the hands of a good technician. This allows us to produce ‚MOJA quality’, so that the parallel is parallel and the right angle is exactly 90 degrees. Since then, we have grown; we have purchased a truck, a trencher, a rotary loader and front loader. I would say that it was actually this tender that made it possible for us to finally call ourselves a real company,” concludes Péter Jávör.

Following the completion of the factory, the company, which previously had only six to seven employees, has grown to a seventeen-employee company, generating annual revenues of around HUF 500 million. And now they can build not only car washes, but much more. Péter Jávör has been proud of the project ever since, he says, and full transparency has been ensured at every stage of the work and in the accounts. “We are trying to stay alive, swimming in a sea of big fish. We can only do that if we play fair. We have no attack surface, that’s our weapon.”

MOJA-Perfekt Kft. has built 169 car wash carports across the country, but they are now also building warehouses and halls, industrial gates and metal-framed residential buildings. High inflation and the economic downturn have of course had a critical impact on the construction industry, and many obstacles have been placed in their way. One of the challenges is recruiting new workers. While they used to be able to screen applicants, this has now been eliminated. The new workforce of young people also works differently from older skilled workers.

“There is no company loyalty, no parties, no cooking together. There is a quiet resignation. One day he doesn’t come in, doesn’t answer the phone. This really upsets me,” complains Jávör. He also sees problems with the training of skilled workers and believes that the labor shortage in

Machinery, automated equipment and robots will solve the labor shortage in the sector.

the sector will be solved by machines, automated equipment and robots. They hope that EU development funds will sooner or later open up in this area, because the technology is too expensive to buy on their own. In any case, they have the experts.

The tender investment has given a huge boost to the company, which has since not only become independent of subcontractors, but has also expanded its machinery.

In the meantime, both owners are trying to focus on the future, keeping an eye on novelties, new materials and technologies on the market. Creativity is the key to progress: their imagination is running wild, they are designing, and trying to find out together what design elements and special processes their business could do.

Dóra Ónody-Molnár

