



CORRUPTION
RESEARCH CENTER
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Impact Assessments Public Consultation and Legislation in Hungary 2011-2014

Budapest, June 2015

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Impact Assessments Public Consultation and Legislation in Hungary 2011-2014

/ Hatástanulmányok, társadalmi konzultáció és törvényhozás Magyarországon 2011-2014

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"It is not the government's duty to make calculations on how many big shops need to move, or how many people have to be fired due to the new regulations. This will calculate the stakeholders."

([Zoltán Kovács](#), the international spokesperson of Hungarian Government; index.hu)

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Summary

This paper explores important characteristics of the Hungarian legislation from 2011 to 2014 through publicly accessible online administrative data. Our focus is on comparing the 2011-2014 period to former years. The CRCB published its first analysis in Hungarian and English in 2014, which examined the quality of the Hungarian legislation¹. Our report for 2015 is not a simple repetition and update. Compared to last year's report we extended and deepened our analysis in several areas. We not only analyse the activities of the parliament by statistical methods (i), but also occurrences of public consultations (ii), and the process of drafting a law and of conducting impact assessment (iii) and report five case studies on law making process (iv).

An important novelty of the present report is that by using objective indicators, it tries to give a picture of the quality of the preparation of laws and legislation in Hungary. For this we use publicly available data that can be found on the websites of the government and the Hungarian Parliament², and other online sources. Based on the publicly available data we are primarily interested in finding out what happened in 2011-2014 in the areas examined and to what extent the legislative procedure makes it possible for stakeholders to be informed and take part in the process of the preparation of laws (i), to what extent preliminary impact assessments and analyses support the laws made by the Hungarian parliament (ii), and to what extent the approved laws can contribute to legal certainty (iii).

In the first part of the report we collect and analyse data about so-called impact assessment sheets. Next, we devote a section to analysing the data related to public consultations. We then turn to the statistical analysis of lawmaking. The last part of the paper we demonstrate five case studies which represent several types of law-making cases with their background, aims, actors and outcomes. The case studies not only serve to illustrate the results of the statistical analysis, but they are examples how the ad-hoc and "tailor-made" legislation or political favouritism works. The most important conclusions of the analysis are summarised at the end of the report.

The years of 2010-14 were a very turbulent period from the point of view of Hungarian legislation. In 2011-13 the Hungarian Parliament adopted between 212 and 226 laws per year. In contrast, between 1990 and 2009 this average was only 125. The empirical analysis of several steps of legislation point out that the accelerating lawmaking process in Hungary since 2010 has had negative effects on the stability of the legal environment, the adequate preparation of laws and the role of public consultation, and hence, the overall quality of legislation.

We can characterize this period by the following properties. The formality of public consultation was present during the entire period. However, citizens and stakeholders had a chance to formulate their opinion and to effectively review bills only in a minority of

¹ See http://www.crcb.eu/wp-content/uploads/2014/02/trvh_2013_riport_140214_1410.pdf and http://www.crcb.eu/wp-content/uploads/2015/01/quality_of_legislation_2013_report_ENG_141117.pdf

² See <http://www.parlament.hu/> and <http://kormany.hu/>.

cases (i). The lack of impact assessment studies was endemic. The lack of deep and empirically grounded analyses of potential economic and social effects of a bill characterised almost every case. Additionally, even the elaborated studies suffer from an acute lack of transparency. The impact assessment procedure established by the Hungarian Government (i.e. impact assessment sheets) was entirely ineffective and amounts to a formality (ii). We can observe an increasing trend in the volume of the bills submitted by the deputies of ruling parties. There was a high ratio of bills which avoided professional consultations by relevant ministries (iii). The data analysis proves that less time is spent on the preparation of bills and on the debate of these bills in the general assembly (iv). The data demonstrate a rising share of “junk laws”, i. e. the published laws with considerable faults, which needed to be modified within one year of their publication (v).

The resulting framework has the following negative consequences in the medium and long term to the rule of law in Hungary. These effects cause deterioration of legal certainty and erosion of the rule of law in Hungary (i). The standard procedures and rules now governing the creation and modification of Hungarian legislation imply a rising level of corruption risks in the body of law (ii). The effects analysed below imply low and weakening broad-based social influence in the entire legislative procedure (iii).

Our analysis aimed at gauging the quality of the preparatory process of bills submitted in Hungary in 2011-2014. We analysed 258 preparatory document packages related to draft bills, from which we retrieved the information content of 248 impact assessment sheets and 27 summaries of public consultations. The preparatory packages are not directly linked to the final, accepted law they are related to, but based on the number of published laws and the number of preparatory packages, a maximum 48% of laws submitted by ministries may have publicly available preparatory packages in 2011-2014. There are not any detailed, well-founded, data-based impact assessment studies in the preparatory document packages, only formal impact assessment sheets for the most part. The number of working days spent on preparing the impact assessment sheets is 2.8 days on average in 2011-2014, which is low by any reasonable standard: this period is not enough to work out detailed, well-founded analyses. The sheets are poor in factual, exact data. Only the budget section includes exact values.

The deadlines for sending in opinions in the public consultations were tight, ranging from 4-8 days on average in 2011-2014, in five cases the deadline and the date of the preparatory package were the same. There are very few summaries of opinions on the government's website: only 22 document packages include a summary. The tight deadlines may be partly responsible for this.

Regarding the quality of legislation, the aim of the empirical analysis was to highlight some characteristics of the laws published in Hungary focusing on the last two years. The analysis is based on the data available on the webpage of the Hungarian National Assembly and the Office of the Hungarian National Assembly. Our dataset is referring to the period between 2006 and 2014 containing 1547 published laws.

The years between 2011 and 2013 were very turbulent within 2006-2014. The average number of published laws in these years was 217. In contrast, between 1990 and 2009 this average was only 125.

In the eras of Orbán-governments the share of bills submitted by deputies of the ruling parties are extremely high. In the first months of 2010, after the change of government, probably the bureaucracy was not altered, and the new government did not trust in its middle and top management. However this ratio did not decline to its level before the second Orbán-government, as it was moving between 19% and 29% since 2011. The consequences may be the following: less professionally elaborated bills (i), non-transparent preparation of bills, with disordered influences (ii), greater possibility of positive or negative discrimination of business groups (iii), rising risk of corruption in connection with legislation and of regulatory capture (iv).

The number and share of published laws modified within one year became extraordinarily high in 2011. Though this number decreased annually to 2013, it remains high in historical terms. The number of amending acts modifying several laws published within the last two years also became excessively high in 2012 and 2013. A marked decrease in 2014 can likely be explained by the elections. These factors may have led to the deterioration of the legal certainty and rising uncertainty among economic actors, particularly in 2011 and 2012, when the “junk legislation” was mostly typical. These effects may last for a long time, distorting legal certainty far into the future.

Till 2010 the legislation became faster. The time elapsed between the introduction and the publication of a bill significantly shortened after 2010. The accelerated legislative process led to restricted possibilities to debate, and to form and explain professional arguments. These effects can be seen in the growing share of “junk” or faulty laws – and also in the rising number of laws published in 2011 and 2012 and their subsequent modifications. The pace of legislation further quickened because of the changes to the rules of legislation in 2014. This compounding phenomenon may lead to faster legislation on the one hand and limited debates – and even reduced publicity of the debates – on the other.

Introduction³

For the analysis of the institutions, legal certainty or legal system, and their links with economic development and growth, researchers often use subjective indicators and collect information from economic actors (mainly company managers) about their opinion on institutional and legal factors. International comparability is a strong requirement in this case. In our research we focus on our analysis of the study of Hungarian legislation – but not based on perception and collected subjective data, and on constructed? perceptual indicators, but we focus on the analysis of objective, hard data characterising the Hungarian legislative process.

This paper explores important characteristics of the Hungarian legislation from 2011 to 2014 through publicly accessible online administrative data. Our focus is on comparing the 2011-2014 period to former years. We propose that the investigated characteristics of laws – the number of days elapsed between submitting a bill and the publication of the final law; the type of the person/organisation that submitted the bill; the number of modifications that became necessary a short time after the publication of the law – serve as indicators for the quality of the law making process and the fragile balance between two basic requirements for legislation: (i) reacting to social and economic changes and (ii) providing a predictable environment for citizens, economic actors and civil organisations.

The CRCB published its first analysis in Hungarian and English last year, which examined the quality of the Hungarian legislation⁴. Our report for 2015 is not a simple repetition and update. Compared to last year's report we extended and deepened our analysis in several

³ This paper is the revised and expanded version of our earlier report made for the EU Commission Representation in Hungary [CRCB (2015): *The Quality of Hungarian Legislation 2013-2014*, CRCB, Budapest, February (Research supported by EU Commission Representation in Hungary, Tender: NP/2014-35/BUD)]. See: http://ec.europa.eu/hungary/about-us/growth-and-jobs/legislation_eu_2014_report_150216_2100.pdf

⁴ See http://www.crcb.eu/wp-content/uploads/2014/02/trvh_2013_report_140214_1410.pdf and http://www.crcb.eu/wp-content/uploads/2015/01/quality_of_legislation_2013_report_ENG_141117.pdf

areas. We not only analyse the activities of the parliament by statistical methods (i), but also occurrences of public consultations (ii), and the process of drafting a law and of conducting impact assessment (iii) and report five case studies on law making process (iv).

An important novelty of the present report is that by using objective indicators, it tries to give a picture of the quality of the preparation of laws and legislation in Hungary. For this we use publicly available data that can be found on the websites of the government and the Hungarian Parliament⁵, and other online sources. Based on the publicly available data we are primarily interested in finding out what happened in 2011-2014 in the areas examined and to what extent the legislative procedure makes it possible for stakeholders to be informed and take part in the process of the preparation of laws (i), to what extent preliminary impact assessments and analyses support the laws made by the Hungarian parliament (ii), and to what extent the approved laws can contribute to legal certainty (iii).

Where it is necessary and possible, we look at previous years as well (as far back as 1990), thereby putting our results into a broader context.

One of the key aspects of the process of drafting and making a law is to find out to what extent the participation of the economic actors is possible, arranged, and predetermined. To what extent is it possible that different interest groups can influence the law and policy making procedure? Is it possible for interest groups to corrupt the lawmaker? Does the lawmaker represent public good or his or her own financial and other interests?

It is also important to examine to what extent the introduction of a bill is based on a carefully considered economic and political strategy, and to what extent they are supported by empirically well-founded impact assessments. In contrast we also identify and try to measure instances of ad-hoc or improvised lawmaking, likely the result of unsophisticated brainstorming exercises.

Finally, we need to ask how rigorous and profound a debate preceded the passing of the typical law passed by the parliament. After the passage of a law, we track how stable they

⁵ See <http://www.parlament.hu/> and <http://kormany.hu/> .

prove to be – thus contributing to legal certainty – or how often they have to be quickly amended due to previously unconsidered and undesired effects.

From among these questions we examine the process of the preparation of a law by means of statistical analyses, the role of impact assessment in the process, as well as the approval and stability of the laws.

In the first part of the report we collect and analyse data about so-called impact assessment sheets. Next, we devote a section to analysing the data related to public consultations. We then turn to the statistical analysis of lawmaking. The last part of the paper we demonstrate five case studies which represent several types of law-making cases with their background, aims, actors and outcomes. The case studies not only serve to illustrate the results of the statistical analysis, but they are examples how the ad-hoc and “tailor-made” legislation or political favouritism works. The most important conclusions of the analysis are summarised at the end of the report.

In the appendix of the report we present the most important and relevant statistical data, the list of public consultations and impact assessment sheets we examined, and an overview of the laws passed in 2013-14.

1. Impact Assessments in Hungary 2013-2014

1.1. Rules of Impact Assessments' Procedure

The analysis of impact assessments and their role in legislation process is a new and very important topic in political sciences⁶. The rules and practices of impact assessments have direct and strong effect to the quality of legislation.

In Hungary the impact assessment procedure of legislation are regulated by the 2010 law „On Legislation.”⁷ They can be split into preliminary and ex-post impact assessments. The preliminary impact assessments are required to analyse the expected outcomes of a proposed law and the consequences if the law were not implemented. An ex-post impact assessment reviews the results and outcomes, both expected and observed, of an existing law. Impact assessments are the responsibility of the ministry or ministries associated with specific laws.

The rules regulating preliminary impact assessments are outlined with more detail in the 2011 „KIM Regulation.”⁸ According to the law a summary sheet have to be filled about the main expected impacts of the planned regulation regarding competitiveness, administrative burden, social inclusion, fiscal effects, and effects on health and the environment, among others. Positive and negative effects are to be explored and examined, quantitatively if possible. The impact assessment's sheet should be accompanied documentation for all calculations included, along with methodology and other relevant information.

⁶ See Liannos, I. – Fazekas, M.: Le Patchwork de la pratique des études d'impact en Europe: proposition de taxinomie, *Revue française d'administration publique* no. 149. 2014. p. 29-59.

⁷ In Hungarian: jogalkotásról szóló 2010. évi CXXX. Törvény, see:

http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1000130.TV

⁸ In Hungarian: 24/2011. (VIII.9.) KIM rendelet, see:

http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100024.KIM

1.2. Empirical Analysis

1.2.1. Preparatory document packages

The documents related to the preparatory phase of a law are available on the government website⁹. Ideally these zipped document packages contain the draft law, the impact assessment(s) and a summary of the electronically submitted opinions from the general public consultation procedure.

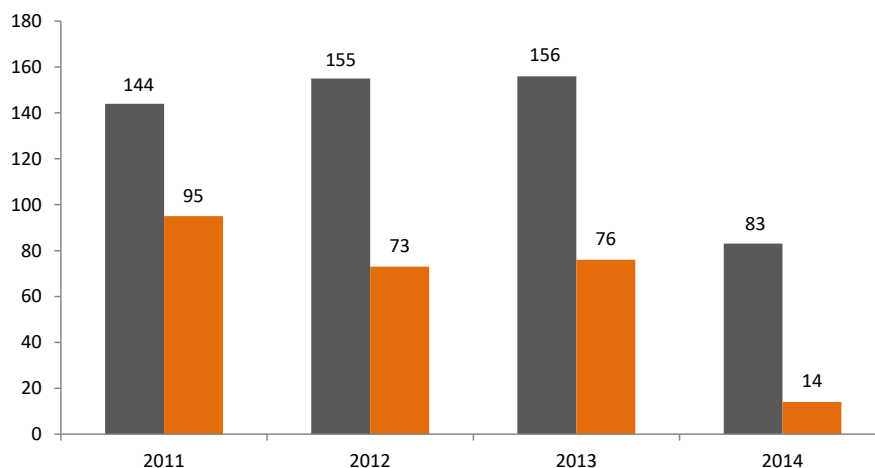
We could identify and download 258 document packages in 2011-2014. This is a small number compared to the number of accepted and published laws between 2011 and 2014: 538¹⁰. The situation is probably even worse than this discrepancy indicates, because there is not any indication in the preparatory packages about the future life of the bill, so these numbers can contain also rejected bills. The website of the Parliament does not make it easy to match the preparatory documents and the final, published laws either, as there is not any mutual, unambiguous identification number for these two kinds of documents. We attempted to match the document packages to published laws using the title of the bill, the date of publication and the name of the ministry that submitted the draft. We managed to link 176 document packages (68%) to final laws.

Consequently, the values in Figure 1.2.1.1 should be considered as an optimistic estimate for the portion of laws with a preparatory document package published on the government's website.

⁹ Current period: <http://www.kormany.hu/hu/dok?type=302#!DocumentBrowse>
Previous periods: <http://2010-2014.kormany.hu/hu/dok?type=302#!DocumentBrowse>

¹⁰ We took into account only bills that were submitted by the government and the ministries, because only in this case is compulsory to prepare impact assessment.

Figure 1.2.1.1: Number of published laws and preparatory document packages, 2011-2014



Note: Grey - number of published laws Orange - number of preparatory document packages

Year	Published laws	Preparatory document packages	%
2011	144	95	66,8
2012	155	73	47,1
2013	156	76	48,7
2014	83	14	16,9
Total	538	258	48,0

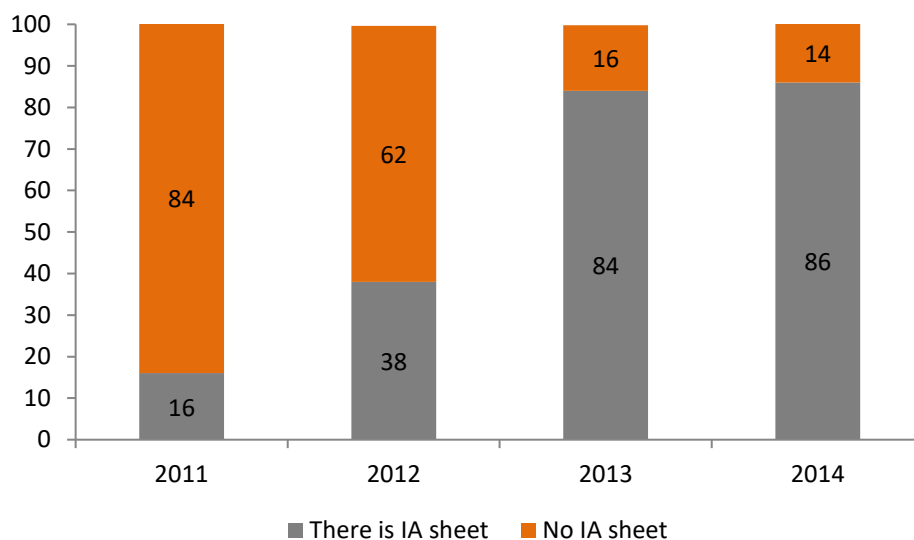
Source: calculations by CRCB

The existence of preparatory document packages does not mean automatically that they also include impact assessments. First of all, none of the downloaded packages contained an extensive, detailed study about the predicted impacts of the proposed bill. Instead of this the standard form of impact assessments is the “impact assessment sheet” which is a two page long chart. (See Annex A3. for example)

We identified 280 impact assessment (AI) sheets in the preparatory document packages. These 280 sheets are connected only to 119 bills because there are bills that have more

than one impact assessment sheets and there are bills that have none (139 pcs that is 54%). The maximum number of sheets connected to a bill is 24.¹¹

Figure 1.2.1.2.: Rate of preparatory document packages that contain impact assessment sheet(s), 2011-2014, %



Case numbers: 2011: 95 2012:73 2013:76 2014:14, Total: 258

Source: calculations by CRCB

These sheets are mixed in PDF and Excel format. Because of differences in the format we were able to retrieve information from only 249 files. Hereafter the content of these sheets will be analysed.

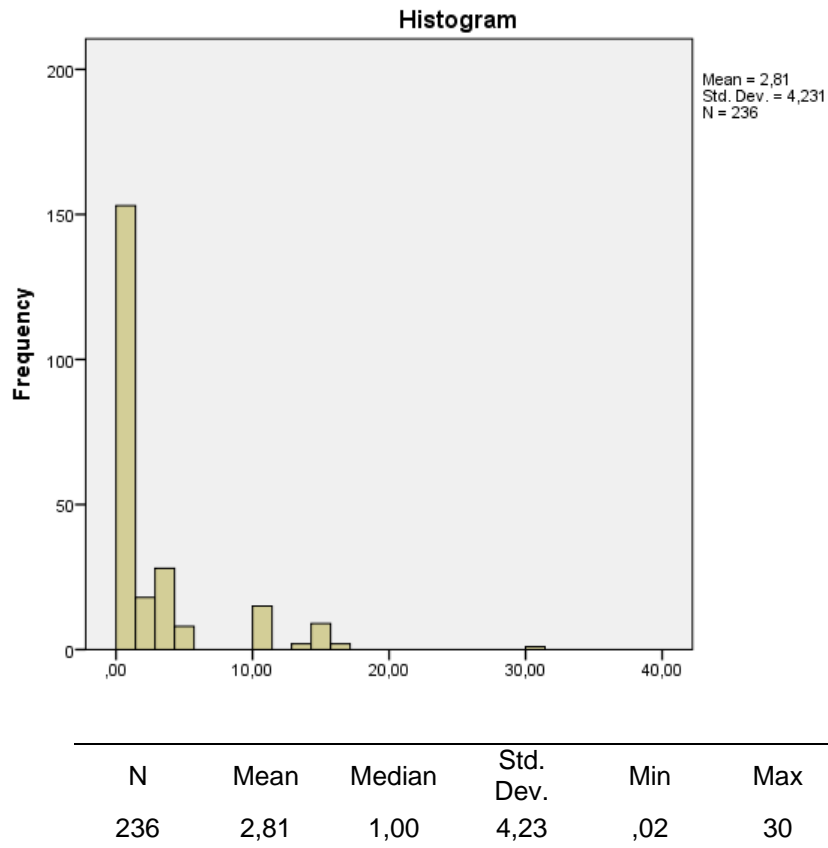
1.2.2. Working days spent on impact assessment sheets

The number of working days spent on preparing impact assessment sheets was 2.8 days/sheet on average. This seems extremely short a time for a well-founded, solid analysis. However, it is also possible that ministry officials misunderstood this question in some cases and they indicated only the time they needed actually to fill out the sheet:

¹¹ This is a draft about the amendment of certain laws regarding healthcare and health insurance (“Az egyes egészségügyi és egészségbiztosítási tárgyú törvények módosításáról”) <http://www.kormany.hu/download/e/d7/20000/eg%C3%A9szs%C3%A9gbiztos%C3%ADt%C3%A1si%20tv%20hv-lapok.zip#!DocumentBrowse>

there are almost 120 sheets that were prepared in only one working days (50%), and 35 sheets (15%) that were prepared in less than one working day according to the data.

Figure 1.2.2.1.: Distribution of IA by number of working days spent on preparing it, 2011-2014



Source: calculations by CRCB

1.2.3. Topics of the impact assessment - Competitiveness

Competitiveness in general

In this phrase and in another (1.2.5) impact assesment sheets were analysed with a focus on economy related ones, too. 118 of 249 impact assesment sheets were marked economic, the ones in connection with economy, finance, social cases, insurance, public health, nuclear energy, electricity, water and land husbandry and other cases similar to these.

Only 42 impact assessment sheets indicate positive or negative impacts on competitiveness in general. There are 118 impact assesment sheets out of 249 about economic bills. 96 of them do not record any change.

Table 1.2.3.1.: Impact on competitiveness in general, 2011-2014

	pcs	%
Decrease	1	0.4
Does not change	206	83.1
Increase	41	16.5
Total	248	100.0

Source: calculations by CRCB

Table 1.2.3.2.: Impact on competitiveness (economic bills), 2011-2014

	pcs	%
Decrease	-	-
Does not change	96	81.4
Increase	22	18.6
Total	118	100.0

Source: calculations by CRCB

Employment

Only 24 of the impact assessment sheets (9.6%) indicate a non-zero impact on employment (there is only 7 economy related among them). In general when a positive impact is indicated, the exact values for these effects are indicated only in six cases and they are labelled as either “significant” or “it cannot be estimated” in four cases. The exact values of economy related impact assesment sheets are "significant" in only one case, "it cannot be calculated" in other one case, and "it is unquantifiable" in one case.

Administrative burden

The predicted administrative burden of the draft bill in question was analysed in 195 cases (78.6%) according to the sheets. Influenced groups are indicated in significantly fewer cases (see in Table 1.2.3.3). Quantified values are required in the sheets only regarding the competitive sector. Among these we found we found only 8 exact values (5.000, 10.000, 50M, 4.000, 1.8M, 2M, 2M and 100M HUF) without any indication if these values apply for one person or for a group together.

In cases of economy related impact assesment sheets, the administrative burden was analysed in 100 cases (84.7%). The appropriate influenced groups can be seen in Table 1.2.3.4. The are only 3 exact quantified value (5.000, 1.8M, 2M) without any further explanation.

Table 1.2.3.3.: Impact on administrative burden, 2011-2014

	Administrative burden		No answer/Does not change
	Increasing	Decreasing	
Competitive sector	14 (6%)	9 (4%)	225 (91%)
Public administration	47 (19%)	23 (9%)	178 (72%)
Citizens	12 (5%)	23 (9%)	214 (86%)

Source: calculations by CRCB

Table 1.2.3.4.: Impact on administrative burden (economic bills), 2011-2014

	Administrative burden		No answer/Does not change
	Increasing	Decreasing	
Competitive sector	5 (4%)	2 (2%)	111 (94%)
Public administration	7 (6%)	4 (3%)	107 (91%)
Citizens	2 (2%)	5 (4%)	111 (94%)

Source: calculations by CRCB

1.2.4 Topics of the impact assessment – Social Inclusion

This topic is totally misunderstood by the experts of the Hungarian Ministries. Instead of disadvantaged groups all influenced groups are discussed in this section, including ‘persons under 18’, ‘anglers’, and ‘family doctors’. As a consequence this section fails to give information on social inclusion impacts, as usually understood, of the analysed bill. Besides, the effects are indicated only as yes-or-no information. Short written explanations are included in only 55 cases.

Table 1.2.4.1.: Impact on administrative burden, 2011-2014

	Advantage	Disadvantage	No answer
First group	78 (31%)	21 (8%)	150 (60%)
Second group	56 (22%)	13 (5%)	180 (72%)
Third group	35 (14%)	11 (4%)	203 (81%)

Source: calculations by CRCB

1.2.5 Topics of the impact assessment – Budget

The budget section is the most frequently completed part of the impact assessment sheets. However, even this means only 63 valid values in 249 forms.

Very interesting that among the 118 impact assessment sheets of economic bills there are only 22 that contains valid values.

Table 1.2.5.1.: Number of valid values in the budget section 2011-2014

	In the analysed period	Current year	Next 2/4 year
Decreasing effect on the budget balance	57 (23%)	25 (10%)	53 (21%)
Coverage of the balance decreasing effect in the budget	17 (7%)	15 (6%)	16 (6%)
Increasing effect on the budget balance	29 (12%)	15 (6%)	28 (11%)
Taking into consideration the increasing effect on the budget balance	1 (0.4%)	1 (0.4%)	-
Total effect	59 (24%)	23 (9%)	54 (22%)
Total effect compared to the adopted budget	63 (25%)	22 (9%)	58 (23%)

Source: calculations by CRCB

Table 1.2.5.2.: Number of valid values in the budget section (economic bills) 2011-2014

	In the analysed period	Current year	Next 2/4 year
Decreasing effect on the budget balance	18 (15%)	12 (10%)	18 (15%)
Coverage of the balance decreasing effect in the budget	12 (10%)	11 (9%)	12 (10%)
Increasing effect on the budget balance	13 (11%)	11 (9%)	12 (10%)
Taking into consideration the increasing effect on the budget balance	1 (1%)	1 (1%)	-
Total effect	16 (14%)	10 (9%)	15 (13%)
Total effect compared to the adopted budget	22 (19%)	11 (9%)	21 (18%)

Source: calculations by CRCB

1.2.6. Topics of the impact assessment – Sustainable development, Health and Other effects

The impact assessment sheets give information about the presence of these effects (yes or no) and a short written explanation. The explanation section is filled out in generally if there is a significant effect according to the yes-no section. However these explanations say quite little: elementary statistics on the character lengths of these texts are given in the table below.

It is also worthy of note that the rate of sheets mentioning impacts on health is quite high (43%). This is because of the high rate of impact assessment sheets related to bills about health care. It seems that EMMI (Ministry of Human Resources, Emberi Erőforrások Minisztériuma) submitted bills more often than other ministries. EMMI is mentioned among the submitters in 43% of all sheets in 2011-2014.

Table 1.2.6.1.: Impact on environment, health and other impacts 2011-2014

	Yes	No	Written explanation (if yes)	Length of explanation mean	Length of explanation min	Length of explanation max
Impact on environment	14 (6%)	234 (94%)	10	417	27	1347
Impact on health	107 (43%)	142 (57%)	102	224	41	933
Other impact	36 (15%)	211 (85%)	34	590	87	3209

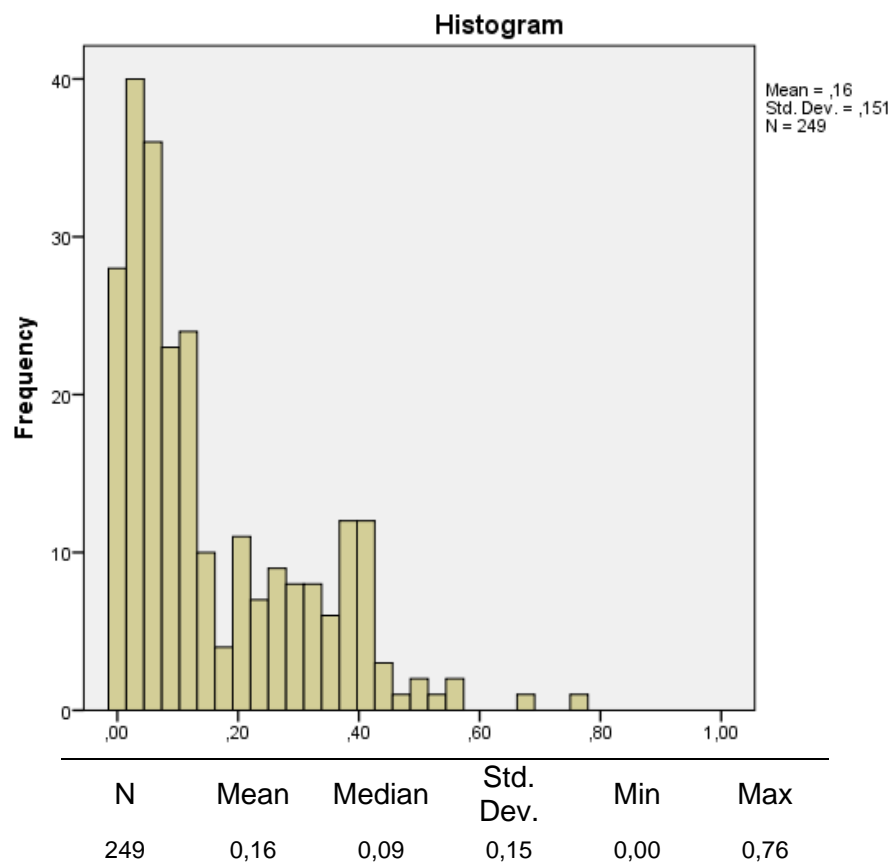
Note: length is indicated in number of characters

Source: calculations by CRCB

1.2.7 Aggregated results

In order to aggregate the results mentioned above we created an index that shows the ratio of filled-out cells on impact assessment sheets. We consider text cells filled-out if the cell contains relevant text. Specifically we check if cells are empty or if it contains only irrelevant characters (e.g: "-"). We do not take into consideration yes-no questions because they are always filled out. We consider numeric cells filled-out if they contain a non-zero numeric value. The possible maximum number of filled-out cells is 34. As Figure 1.2.4 shows, the average rate of filled-out cells are low (16%). However, this result could be only a starting point of a more advanced analysis. In further research it should be also considered which cells have relevance in connection with the specific draft bill.

Figure 1.2.7.1.: Distribution of the ratio of filled-out cells in impact assessment sheets 2011-2014



Source: calculations by CRCB

To sum it up, the most important – indirect - problems with impact assessments are that they are missing, presumed absent, for a significant number of accepted and published laws and when they exist, they are only short sheets with limited content.

The impact assessment sheets themselves are of varying quality with little exact, factual data. The overall impression is that these sheets have a mainly formal role in the procedure of legislation.

2. Public Consultation 2011-2014

2.1. Rules of Public Consultation in Hungary

The current public consultation process in Hungary is regulated by the 2010 „Law on the participation of the community in the preparation of laws” (2010 / CXXX Law).¹² According to this law, draft laws must be made available to the public and put to debate and discussion with the broader community, with the exception of specific laws like the annual budget or legislation deemed urgent. The consultation types can be either „general,” meaning that anyone can contribute opinions or thoughts on the government’s website, or „direct,” meaning that only specific interest groups, presumably to be affected by the law under consideration, will be invited to contribute their opinions. „General” consultations are to be held whenever there is a public consultation process. Our research is focused on the public consultations found on the government’s website. From them we get a broad view of how these consultations work, and note the characteristics of debates of laws that are eventually passed and the successes and failures of this system.

The next phase of a consultation involves the response of the government minister responsible for the preparation of the specific piece of legislation. The minister is required to summarize the feedback given by citizens, providing reasons for why specific suggestions are not carried out, and to post this analysis on the government website alongside a list of reviewers.

According to the Office of National Economic Planning („Nemzetgazdasági Tervezési Hivatal”) the following rules and regulations, among others, must be followed in a general public consultation:¹³

- The consultation must be carried out at such point in the lawmaking process that it may influence the opinions of lawmakers.

¹² In Hungarian: „2010. évi CXXX. törvény a jogszabályok előkészítésében való társadalmi részvételről.” See: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1000131.TV

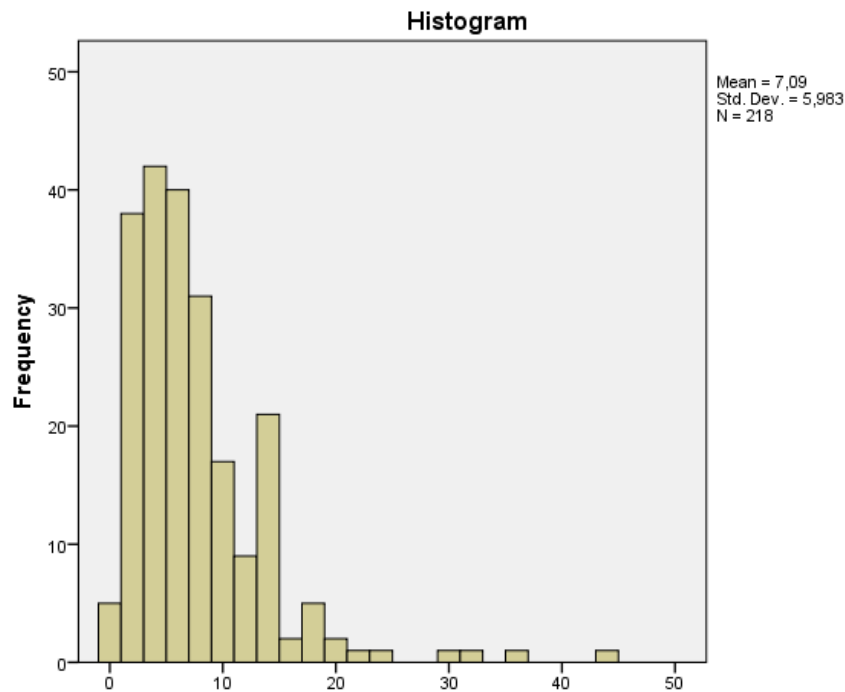
¹³ <https://www.nth.gov.hu/hu/media/download/206>

- The planned legislative timeframe must leave room for the public to formulate useful opinions and suggestions. Experience shows that the more time is allowed, the better the feedback. (However, a legal minimum is not defined.)
- The documentation released in conjunction with a public consultation should be easily understandable, concise and jargon-free.
- The framework must help the people quickly recognize and decide whether a specific consultation and the associated published documentation are relevant to their lives. To this end, the creation of a public information table summarizing the different consultations is necessary.

2.2. Empirical analysis

The official procedure of general public consultation consists of the solicitation of public input via email after a preparatory document package appears on the government's website. The deadline for this action is indicated on the page. These deadlines are often very tight. The average number of days a consultation was open varied between 4 and 8 days in 2011-2014. In the case of five bills the deadline for giving opinions was the same day as the day the bill appeared on the website. This practice is actually not against the law as there is no legal minimum defined for the period of submitting opinions but it definitely limits the possibility to draw up and submit opinions.

Figure 2.2.1.: Distribution of consultation procedures according to the number of days between date of opening the public consultation and deadline for submitting views 2011-2014



Source: calculations by CRCB

Table 2.2.1.: Main statistics of public consultations' deadlines (the number of days between date of package and deadline for submitting views) 2011-2014

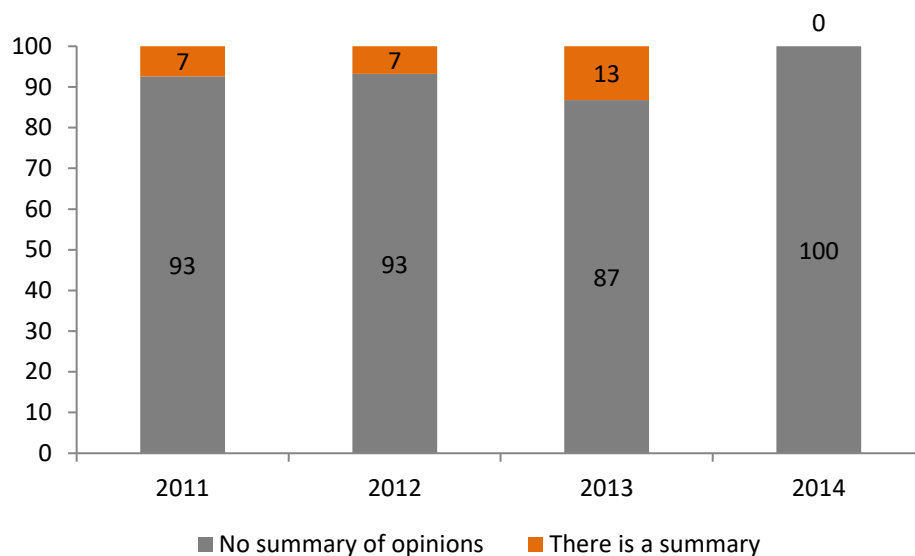
	Number of preparatory packages	Mean	Median (days)	Std. Dev.	Min	Max
2011	65	7,66	6,00	6,05	0	35
2012	66	6,94	5,50	6,77	1	43
2013	74	7,19	6,00	5,52	0	31
2014	13	4,38	5,00	2,96	0	12
Total	218	7,09	6,00	5,98	0	43

Source: calculations by CRCB

Note: 2 negative values excluded from data and in 38 cases no deadline was given on the site

If opinions arrived to a specific bill, the content of the suggestions and the ministries' reaction to them is published in a summary. Probably partly because of the tight deadlines and the passive way the ministries solicit feedback, the number of these summaries is very low. Only 22 document packages include a summary of the public consultation for a total of 8.5% of all packages.

Figure 2.2.1.: Rate of packages that contain summary of the public consultation, 2011-2014, %



Case numbers: 2011: 95, 2012:73, 2013:76, 2014:14, Total: 258

Source: calculations by CRCB

3. Analysis of Hungarian Legislation 2006-2014

3.1. Change in the Rules of Legislation - 2014

The new Standing Order

On February 13 2014 the Hungarian Parliament accepted the parliamentary resolution (10/2014 (II.24.) National Assembly resolution)¹⁴ that, after 10 years of the previous system, essentially formulates/frames a fundamentally new Standing Order¹⁵:

The new Standing Order was originally set to come into effect only after the following election, in May 2014 ("this resolution shall come into effect after the next general election of the MPs, on the day of the inaugural session of the National Assembly"). However, in May 2014 ¹⁶this very new Standing Order was immediately changed¹⁷ by the FIDESZ majority. The final version (10/2014. (II.24.) OGY) can be read here¹⁸.

There was no doubt about the need for a new Standing Order. Of course, there were parts which were immediately criticized by both the opposition and the press. One example is the Order on standing up to greet the Speaker of the House. Later the Order was modified stating that MPs should stand up to greet 'voters' at the beginning of the session. The new rule generated spirited discussions about the ban on using aids during speeches – aids, interpreted as 'tangible, visual or sound recordings as means of illustration, " are prohibited by the new regulation. The new house rule eventually included

¹⁴ <http://www.parlament.hu/irom39/13253/13253.pdf>

¹⁵ http://www.parlament.hu/iromanyok-lekerdezese?p_auth=XTdTDkdB&p_p_id=pairproxy_WAR_pairproxyporlet_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=1&pairproxy_WAR_pairproxyporlet_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Fintetnet%2Fcplsql%2Fogy_irom.irom_adat%3Fp_ckl%3D40%26p_izon%3D132

¹⁶ http://www.parlament.hu/iromanyok-lekerdezese?p_auth=XTdTDkdB&p_p_id=pairproxy_WAR_pairproxyporlet_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=1&pairproxy_WAR_pairproxyporlet_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Fintetnet%2Fcplsql%2Fogy_irom.irom_adat%3Fp_ckl%3D40%26p_izon%3D132

¹⁷ <http://www.parlament.hu/irom40/00132/00132.pdf>

¹⁸ <http://www.complex.hu/kzldat/o14h0010.htm/o14h0010.htm>

this clause, which means that Hungarian legislation forbade the use of figures and tables as visual aids during speeches or statements in Parliament.

Only those parts of the new Standing Order will be studied that are important in terms of legislative procedure. Chapter VI. in the resolution of the Parliament regulates the general rules for the debates of bills.

According to the new Standing Order if the President of the Republic, the government or a standing committee of the National Assembly submits a bill, then it will be entered in the Order Book automatically.

Concerning proposals by MPs (of which there are many examples), other rules apply. As a rule, the designated committee decides on the Order Book:

" Proposed legislation submitted by a Member of the National Assembly will be entered in the Order Book of the National Assembly if it is supported by a standing committee (hereafter Order Book committee) designated by the Speaker of Parliament."

With this rule, in almost all cases, the plenary sittings are not obliged to debate unwanted proposals submitted by the opposition. This limits the opposition's opportunities to a great extent.

The most crucial change affects the further expansion of the scope of authority for a committee. In depth debate, which was previously conducted during plenary sittings according to the old Standing Order, will be led by the designated standing committee (*Order Book committee*) as stated in the new the Standing Order:

"After a legislative proposal is submitted the Speaker of Parliament designates a standing committee (Order Book committee) (hereafter designated committee) to conduct a detailed debate."

Any other designated committee, however, can announce that they wish to have a detailed debate about provisions fitting into their scope of responsibilities. They are referred to as „committees related to debates” by the NA resolution.

As a rule, there should be at least seven days between the submission and the start of the general debate of a legislative proposal. As can be seen in case of specific procedures, there can be significant deviation from the above mentioned rule.

The House Committee can set up a time frame for general discussions on legislative proposals. These rules are precisely set by the Standing Order. The new Standing Order provides a minimal number of hours for amending the Fundamental Law, for initiating a lack of confidence in the Prime Minister, for budget issues, or legislative proposals on its implementations.

The committee on legislation is a new institution, which acts as a "super committee". As a rule, a proposal to an amendment/motion to a bill can be submitted by MPs, the negotiating committee and the Committee on legislation. The special and privileged rights of the Committee on legislation are many.

It can put forth a motion following proposals and reports made by the negotiating committees. The committee on its own, or on request by the proposer or if the two are not the same, then by the government, can overwrite the motions and decisions made by designated or related committees.

As mentioned earlier, a detailed discussion of the bills is conducted by the negotiating committee. However, the negotiating committee is not only to negotiate the proposed amendments, but also, surprisingly enough, it is responsible for deciding issues to be studied before the commencement of the general debate:

"During a detailed debate the designated committee examines that the bill
a) meets the content and form requirements set by the Fundamental Law
b) fits in the unity of the legal system,
c) complies with the obligations of the international law and the European Union law
d) meets the professional requirements of the legislation. "

At the end of the detailed debate, the accepted amendments are compiled into one proposal, and it is submitted by the negotiating committee (the so-called committee motion closing the detailed debate). If there are multiple negotiating committees, then each committee submits its own committee motion closing the detailed debate separately.

These and the corresponding committee reports on the detailed debates, assuming the supercommittee does not override, are discussed by the Plenary sitting, and the representatives vote on the motions.

The new Standing Order precisely regulates this procedure and also determines timeframes:

"If the Committee on legislation submits a summary report, the debate is started by the speaker designated by the committee on legislation, and then - if there is a minority opinion within the committee on legislation – they are followed by the speaker of the minority opinion. These speeches are to be delivered in a total of fifteen minutes, and if there is a minority opinion then seven minutes should be given to express that."

Special forms of negotiation

1. Urgent debate

Urgent debate can be initiated by the proposer and 25 supporting representatives. With this procedure the time between the submission of the bill and the start of the general debate can be reduced to two days, and all other deadlines are radically shortened as well. What is more, the Standing Order also stipulates that there must be at least six days between the submission and the final vote. Committees may meet during the plenary sitting.

An important rule is that, according to the resolution of the Parliament "there may be six urgent debates in half a year" and "requires a 2/3 decision. "

2 Specific procedures

Such a procedure can be initiated by the proposer or at least one-fifth of the representatives. There may be maximum four specific procedures per half a year. The Fidesz majority, however, used this opportunity four times in the first half of 2014, in May and in June.

On the specific procedure type of debate, the Hungarian Parliament shall decide without debate. In order to have a specific procedure more than half of the MPs' votes are required. The vote will decide on deadlines differing from the general rule.

In specific procedures, the detailed debate of the bill is conducted by the Committee on legislation with the application of NA resolution § 44 Sec. (1) and (3) (4).

3. Departing from the provisions of the Standing Order/Rules of Procedure

The Standing Order allows:

"As an exception, without any debate the National Assembly may decide on the ground of the proposal by the House Committee that with the vote of four-fifths of the Members it is permitted to depart from the Rules of Procedure in case of an issue debate or decision making."

So the Standing Order contains a provision with which a departure from the Orders is made possible. However, nothing more can be known about this procedure. There were six use cases of this provision in May and June in 2014, and two between July and December 2014. Clearly they wanted to be able to keep to the quota for the urgent and specific procedures.

Presumptive advantages and disadvantages

Those in favour of the new Standing Order argue that committees are able to deal with bills and amendment proposals more efficiently. Detailed discussions during plenary sittings did not generate any interest, thus those were mere waste of time¹⁹. Improvements in the quality of the laws are expected, because the supercommittee (the Committee on legislation) can spot any incoherent proposals, and at the same time they can compile a version of the different proposals, which will be in harmony with itself and with all other legislation/laws. The restriction of amendment opportunities before voting is highlighted as a great achievement. They claim that this way there will be fewer chances

¹⁹ A Kövér László (FIDESZ) szándéka szerint szakítanának az "üres, unalmas, néha személyeskedő szócsepléssel", lásd: http://hvg.hu/itthon/20131114_Orszaggyules_hazszabaly_Kover_Laszlo

for having ‘omnibus bills,’ that is, laws covering a number of diverse or unrelated topics, and amending more laws at the same time. Some of the most government-critical blogs and weekly magazines also mention these advantages²⁰.

Those against the new Standing Order argue that there is still an opportunity for specific procedures, that is in two days a new law can be born, or an old one amended, thus making no room for anyone to respond to the new regulation. With this option the parliamentary majority, except for the MPs and the opposition, sets the footing for those concerned, including professional organizations, market actors, indeed the whole society. The following is the statement made by one of the smaller opposition party’s leader:

"According to Schiffer there are several parts of the proposal which may influence the legislature. One hour before the meeting it is still possible to submit proposal to amend the daily Order Book, they would start a specific procedure instead of an urgent procedure, thus making it possible to depart from the usual legislative process. In connection with this the faction leader claimed that the simple majority could make it accepted that four times in half a year the legislative procedure could be put between ‘inverted commas/put on hold’.

The politician emphasized that although the rules concerning the submission of motions before final vote would be stricter; still there are chances to submit these motions 72 hours before the commencement of meetings/sittings in certain cases. Furthermore he underlined that this process excludes the public and professional control, and according to Schiffer in the past years this was the favourite ‘channel’ for lobby groups.”²¹

Critics of the new Standing Order also question whether the committees are sufficiently prepared to perform new tasks. They also mention the problem of limited publicity, since the debates are conducted by the committees. Although the sessions are open, but there is little chance for live broadcast, or for having the minutes made public or accessible in one or two days. As we will see these concerns are likely to be completely legitimate. The socialists criticized the following aspect: "According to the socialist György Bárándy the Standing Order proposal is an admission by the governmental parties that the operation of the House is unacceptable. He said that one of the major changes with the setting up

²⁰http://tenytar.blog.hu/2014/06/18/uj_hazszabaly_az_ordog_a_reszletekben_rejlik
<http://igyirnankmi.hvg.hu/2013/12/06/tul-a-felallva-udvozlesen/>

és

²¹András Schiffer is deputy of an opposition party (LMP).
http://mandiner.hu/cikk/20131208_nem_tetszik_az_lmp_nek_a_keszulo_uj_hazszabaly

of the Committee on legislation is that the scene of the detailed debate will be the Committee itself. He would regard it as a viable option if as in cases of the plenary sitting it would also get publicity (radio and TV recordings). He said that with the two-minute–limited speeches the debate gets killed."

The effects on the quality of legislation

From the above description, we cannot assess whether the effectiveness of the legislature has increased, but it is clear that with the new Standing Order the time requirements for passing bills have reduced.

Has the transparency of the legislation increased or decreased? There are still verbatim minutes about plenary sittings. According to the Standing Order Minutes are to be made at Committee meetings, as well.

If someone is interested in the latter, a significant decrease in the accessibility can be perceived. It is very complicated to find minutes on the website of the National Assembly. After thorough research on the Committees' separate pages we were able to find tables about the time of Committee Meetings, where on clicking on a coloured number we got access to the minutes of the given meeting.²² From this we can learn what were on the agenda that day, and a summary of who said what is also available. Unfortunately, the time spent on debating the bill is not known. It can only be determined in exceptional cases because, although we know the duration of the meeting, the time spent on each item of the agenda cannot be calculated and cannot be found.

Therefore it is impossible to state how much time the designated and related Committees, and the Committee on legislation rendered on dealing with the given law. It is also not possible to determine how much time is spent on placing motions/proposals in the Order Book, on hearings, on briefings and how much time is left for the real work: the draft legislation. To provide an example, we took notes on the activities of the Committee on

²² E.g.: the minutes of the Economic Committee on 9. December 2014 can be found here: <http://www.parlament.hu/documents/static/biz40/bizjkv40/GAB/1412091.pdf>

Legislation and the Committee on Economic Affairs in May in 2014 and between the period of June and the end of December in 2014.

Table 3.1.1.: Time spent on meetings at the Committee on Economic Affairs

Date	Agenda items	Length of meeting in hours and minutes
June 03.	hearings	1h49'
June 10.	Entering items in the Order Book	08'
June 18.	One bill debate+SAO request	12'
June 25.	Several bill debates	19'
June 30.j	Entering items in the Order Book	11'
September 17	Several bills and Entering items in the Order Book	47'
September 20.	hearings	2h35'
September 25.	Several bills and Entering items in the Order Book and others	38'
October 13.	Several bills and Entering items in the Order Book and others	25'
October 20.	Entering items in the Order Book	14'
October 21.	Several bills and SAO report	59'
October 28.	Several bills	05'
November 05.	Several bills.+SAO+others	38'
November 10.	bill debate and Entering items in the Order Book and others	10'
November 12.	Briefing, bill debate, others	1h36'
November 18.	bills debate and Entering items in the Order Book	26'
November 24.	resolutions	08'
November 27.	3 bills debate	42'
December 02.	Bills debate and resolutions	26'
December 09.	Hearings, bills debate, others	1h32'

Note: Time spent on meetings is approx. 14 hours in total according to the table

Source: calculations by CRCB

Table 3.1.2.: Time spent on meetings at the Committee on Legislation: 12. 2014 – December 12. 2014

date	Agenda items	Length of meeting in hours and minutes
May 12.	Forming and several bills	3h10'
May 15.	One bill.:T/106	0h13'
May 28.	Several bills	No data available
June 05.	One bill.:T/146	1h55'
June 10.	One bill.:T/154	0h43'
June 19.	One bill.:T/168	0h37'
June 23.	One bill.:T/357	0h11'
June26.	Debate of several bills	1h38'
June30.	One bill.:T/311	1h13'
July 02.	Debate of several bills	1h31'
September 18.	Debate of several bills	1h33'
September 22.	One bill.:T/1272	1h19'
September 24.	One bill.:T/466	0h22'
October 16.	One bill.:T/1124	0h06'
October 20.	One bill.:T/1273	0h03'
October 30.	Debate of several bills	0h41'
November 06.	Debate of several bills	0h43'
November 12.	Debate of several bills	1h16'
November 13.	Debate of several bills	0h59'
November 20.	Debate of several bills	2h27'
November 27.	Debate of several bills	1h10'
December 04.	Debate of several bills	4h04'
December 11.	Debate of several bills	5h19'
December 12.	Debate of several bills	1h52'
December 15.	The Minutes cannot be read electronically.	
December 23.	The Minutes cannot be read electronically.	

Note: Time spent on meetings is approx. 33 hours 12 minutes in total according to the table

Source: calculations by CRCB

That is the Committee on Economic Affairs in five parliamentary months held meetings, on average, in 2 hours and 28 minutes monthly, 32-33 minutes weekly.

The monthly average of the super committee is a little bit more than 5.5 hours; the weekly average is a little bit less than 1.5 hours. It means that the super committee that had the most and longest meetings and debated most of the bills worked 1.5 hours a week. We can claim that the new Standing Order created the opportunity to a radically accelerated legislation procedure, and it has been implemented. As a consequence the transparency of legislation has been reduced.

Committee Minutes in other EU member states

In the United Kingdom the minutes of Committee debates are available and they are assigned to specific laws so it can be calculated how much time was spent with a certain bill. E.g the reports of the committee sessions of the Childcare Payments Act 2014 bill are available here:

<http://services.parliament.uk/bills/2014-15/childcarepayments/stages.html>

And the minutes of the first sitting of the Committee is available here:

<http://www.publications.parliament.uk/pa/cm201415/cmpublic/childcare/141014/am/141014s01.htm>

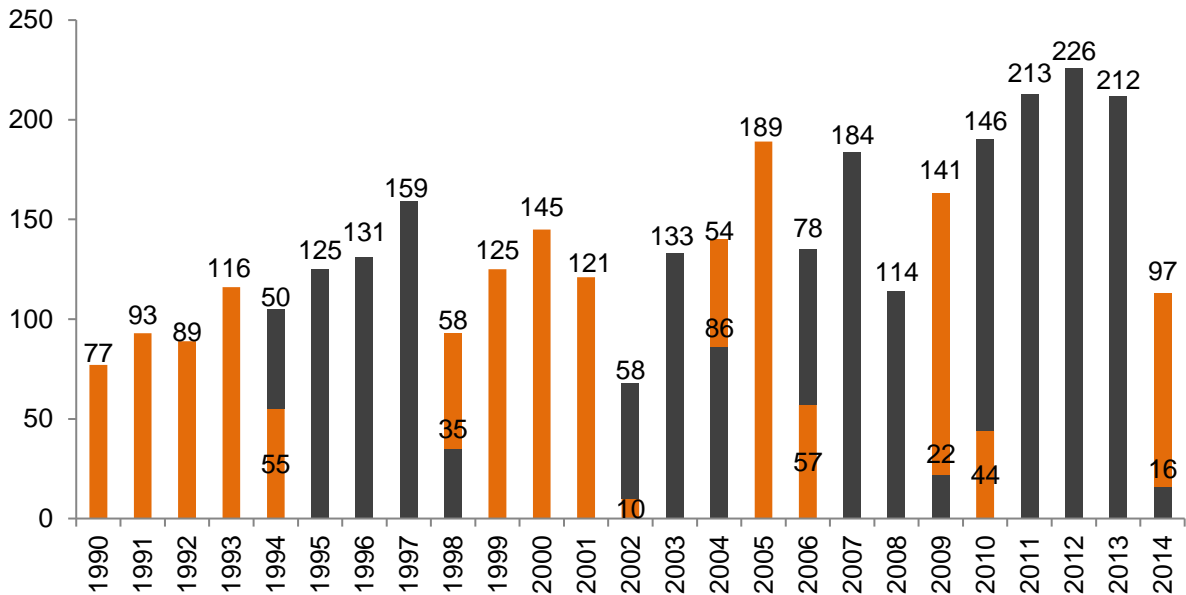
In Germany the summaries about the recommendations of Committees are available but no exact minutes. In France only preparatory documents of Committees are public but exact minutes are not.

3.2. Quantitative indicators of the quality of legislation

Number of laws

In this section we describe some indicators regarding the characteristics of legislation. The quantity of new bills and laws per year has a significant effect on their quality because it determines the time available for preparation, development of impact assessments and for public consultation. Figure 3.2.1. shows that between 2011 and 2013 a comparatively high number of bills were passed and published by the Hungarian Parliament reaching a peak in 2012. However in 2014 this number was dropped. It is noteworthy the number of published laws between 2011 and 2013 is nearly the quarter of the number of published laws in the previous 21 years. In election years usually less law is published.

Figure 3.2.1.: Number of published laws per year and government 1990-2014



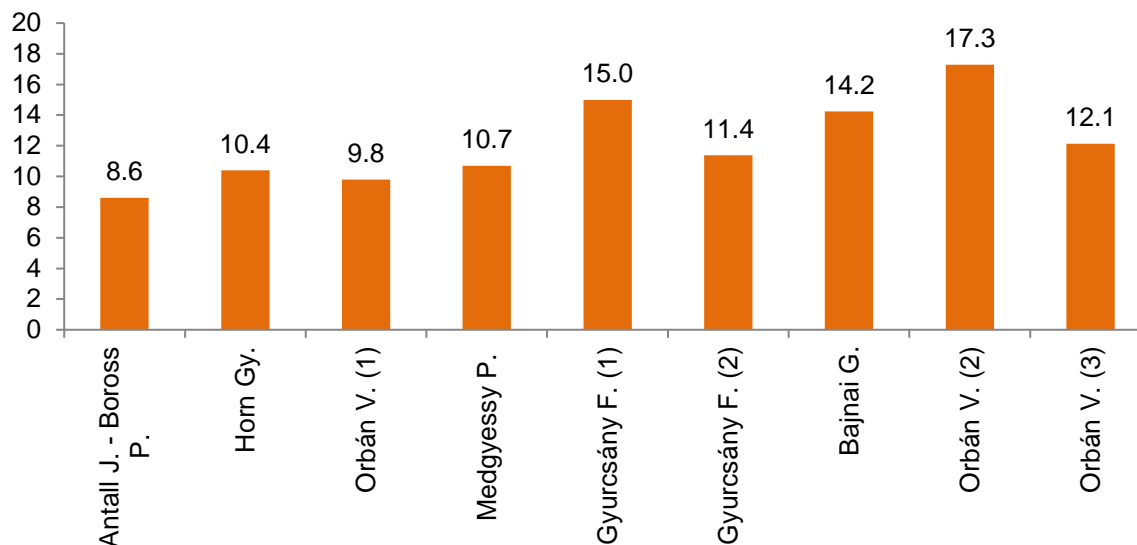
Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Appendix 1.

Election years: 1994, 1998, 2002, 2006, 2010, 2014. Election year

Source: calculations by CRCB

It is relatively hard to draw clear-cut conclusions regarding the quality of legislation of the Hungarian governments from Figure 3.2.1. as the underlying length of legislative periods varied per prime minister. In order to make comparisons clearer Figure 3.2.2 shows the monthly average of published laws in each government cycle. It is clearly notable that in the era of the second Orban-government, elected in 2010, the average number of newly published laws per month increased significantly. Although in the first eight months of the third Orban-government this average became lower.

Figure 3.2.2.: Number of published laws under each government, monthly average 1990-2014



Note: In the last examined period (OV (3)) only 8 months were analysed (May 2014- Dec 2014). Source: calculations by CRCB

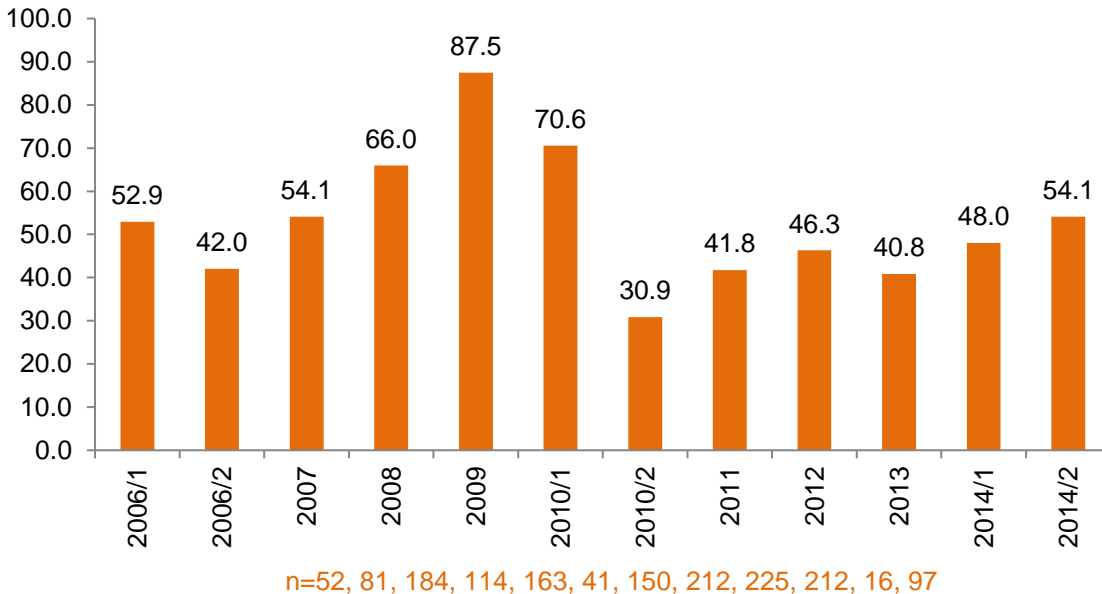
The length of preparation and debate

The growing number of new laws passed has caused the time available for preparation, debate and decision-making to decrease in the period of the second Orban-government. The average number of days between the introduction of a bill and the publication of the final law in the official journal was between 31 and 48 during the years of the second Orban-government (2010-2014) – in 2010, it was only 31 which is the lowest value during the analysed period (2006-2014). The second lowest value was reached in 2013 with 41 days. In the first eight month of the Orban government elected in 2014 the average number was 54 days, what is the second lowest value in comparison to the former governments.

The decrease of the days between the introduction and the final act in the Orban-era since 2010 is more conspicuous if we are looking at the median instead of the average – so when we are looking at the “value in the middle”, compared to which half of the laws were published faster and half of them slower. The few laws with extremely short or long legislative process less affect this value. The lowest value was reached in 2014, before

the election with 15.5 days, however there was clear breakpoint at the change of government in 2010: in the former period the medians were between 39 and 55, but afterwards these values were varying between 15.5 and 37.

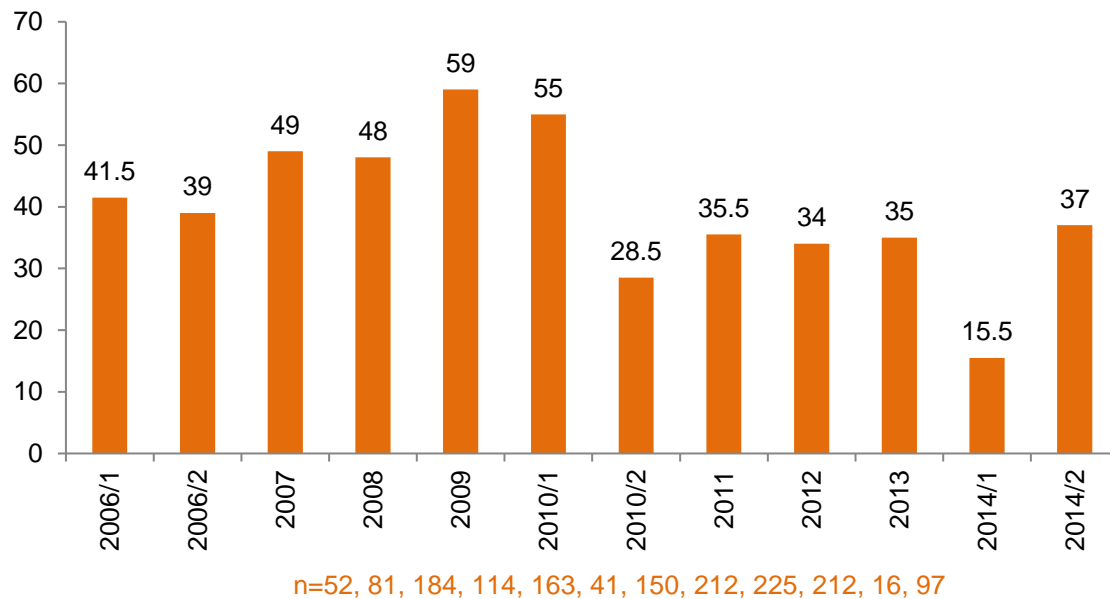
Figure 3.2.3.: Average number of days between introduction and publication of a bill, 1998-2014



Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Appendix 1.

Source: calculations by CRCB

Figure 3.2.4.: Median number of days between introduction and publication of a bill, 1998-2014



Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Appendix 1.

Source: calculations by CRCB

Bills submitted by Member of Parliament

There is an important difference between bills submitted by Members of Parliament (MPs) and those submitted by ministries or committees of the government. In the case of MPs' bills, certain phases of the decision making process can be skipped. These phases are, for example, ministerial and public consultations, which are normally part of the standard procedure of law making. What is cause for concern regarding MPs' bills is that it is not clear who, which organisations and whose interests had an influence on the bill²³. This process is markedly less transparent than the alternative.

²³ Tóth, István János – Cserpes, Tünde – Kotek, Péter – Vereckei, András: Kormányzati kudarcok, járadékvadászat és korrupciós kockázatok a magyar villamosenergia-szektorban, in: Szántó, Zoltán – Tóth, István János – Varga, Szabolcs (ed.): A (Kenő)penz nem boldogít? Gazdaságsszociológiai és politikai gazdaságtani elemzések a magyarországi korrupcióról, BCE Szociológia és Társadalompolitika Intézet Korrupciókutató-központ, Budapest, 2012. március. pp. 99-239. http://www.crc.uni-corvinus.hu/download/szz_tij_vsz_a_kenopenz_120330.pdf

While governing through bills submitted by MPs could be faster, the public consultations and professional debates are more limited and it increases the risk that important interests and professional considerations will not have an influence on the final decision. This could result in passing inadequate, erroneous regulation – sometimes maybe just because of incomplete information. In general terms, the increasing rate of MPs' bills could increase also the risk of government failure.²⁴

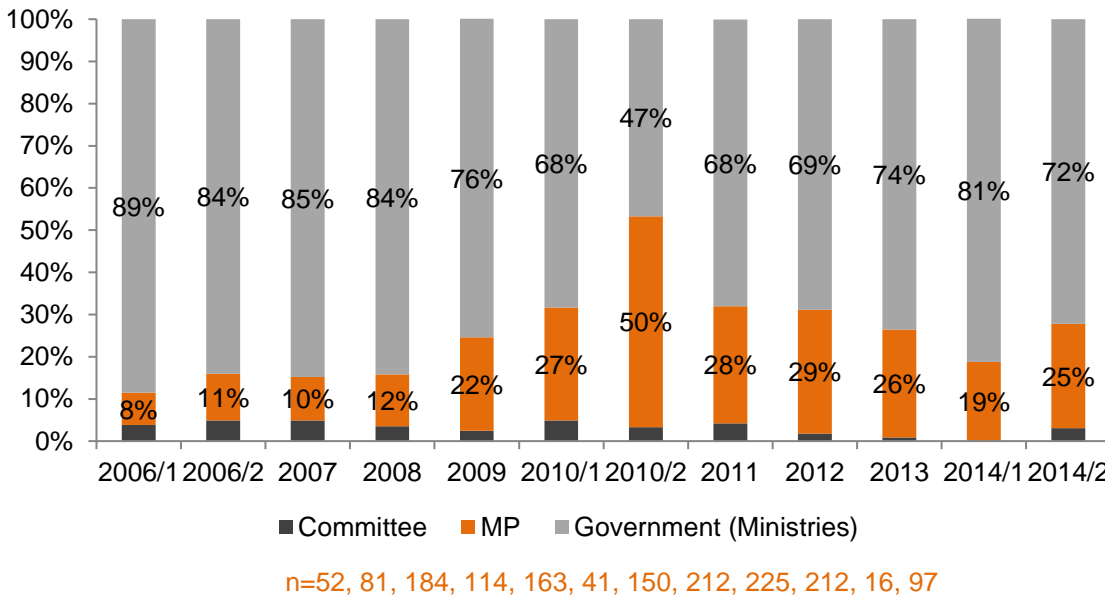
Figure 3.2.5 shows that since 2010 a higher number of bills submitted by MPs have been passed compared to the former government period²⁵ that also translates into a considerably higher proportion of these laws under the second Orbán government compared to the previous governments.²⁶

²⁴ About the reasons of government failures see: Besley, T. 2006: Principled Agents? The Political Economy of Good Government, Oxford University Press, New York.

²⁵ The data analysed in the following sections are available for us only for 2006-2014, so the analysis is limited to this period and thereafter "2006/2" implies the period after the election in 2006.

²⁶ 2010/1 is excluded from this comparison due to the low number of laws passed, only 39.

Figure 3.2.5.: The ratio of published laws by type of submitter per year, 2006-2014

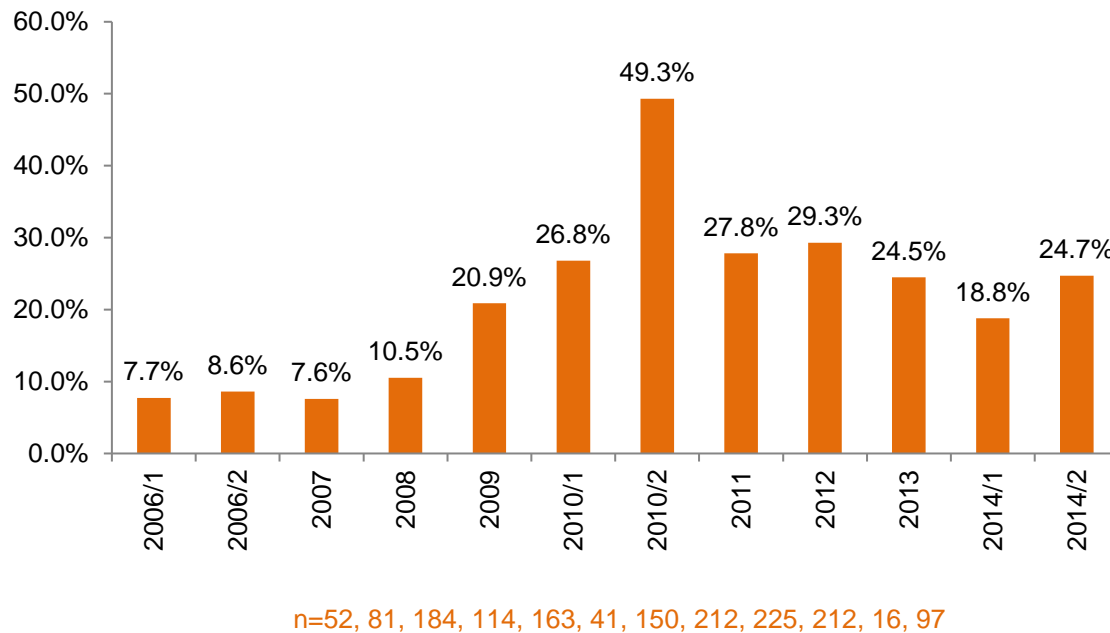


Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Appendix 1.

Source: calculations by CRCB

The share of bills submitted by deputies of the ruling parties also reached a peak in 2010, until the first year of the second Orban-government. A probable cause of this is that in the first months after the change of government the bureaucracy was not altered. In 2011 there was a sharp decline regarding this rate, however it remained high comparing to the period before 2010.

Figure 3.2.6.: Share of bills submitted by MPs of ruling parties, 2006-2014, %



Source: calculations by CRCB

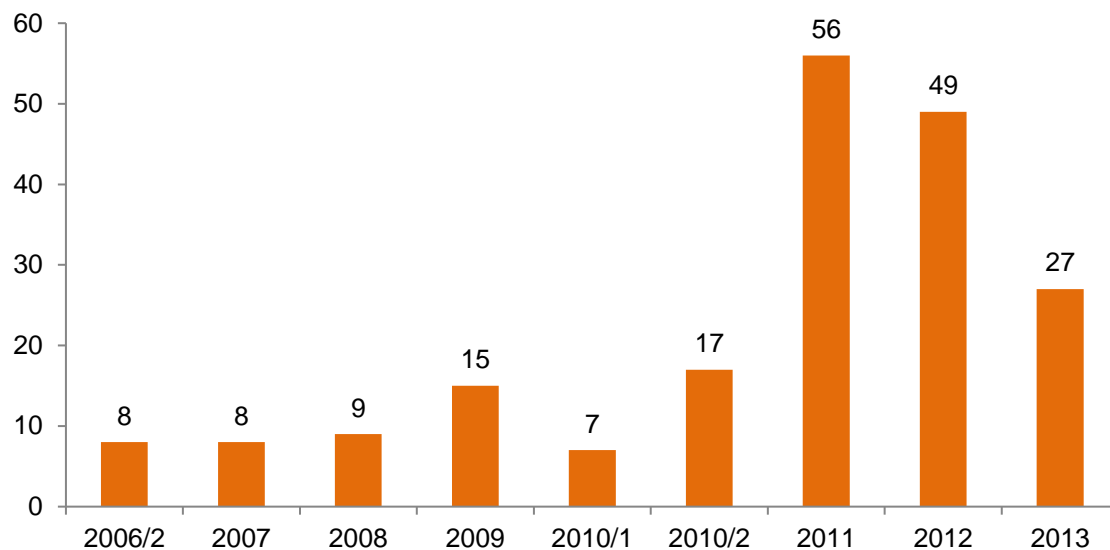
Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Appendix 1.

The share of “junk laws”

A passed and published law can be modified if needed. Modifications could become necessary, on the one hand, because of the pressure from economic and social changes typical of turbulent times such as the financial crisis of 2009-2010. But on the other hand, poor preparation could also result in quick amendments when the shortcomings and negative effects of the law emerge after it comes into force. So quick amendments of laws may refer to their low – “junk” – quality.

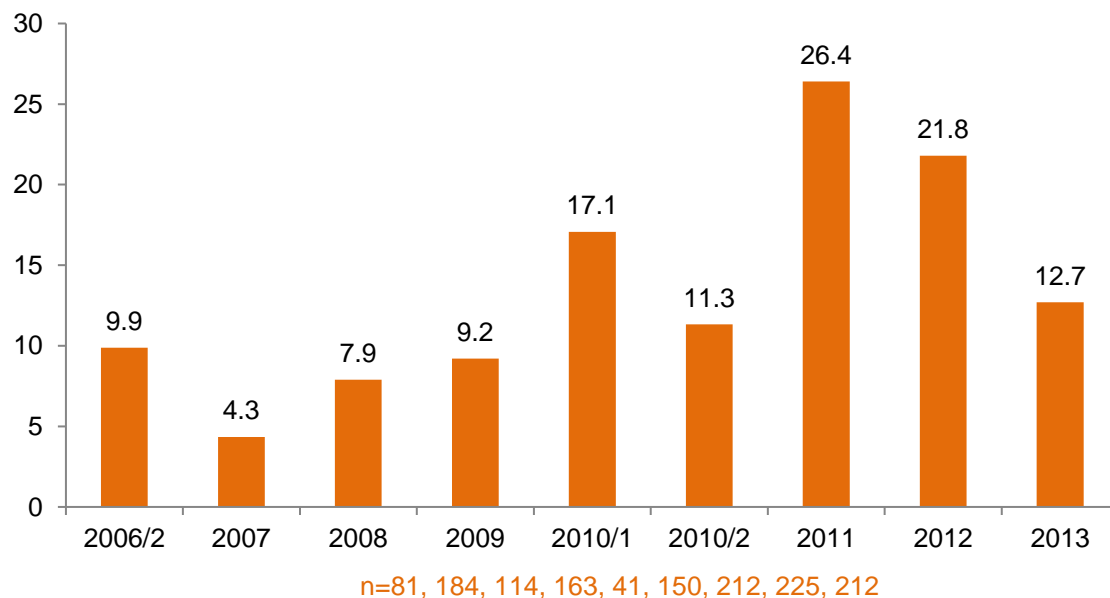
To ensure comparability, Figure 3.2.6. shows the rate of laws that needed to be modified within one year after their publication in the official journal. In this way the results aren't influenced by the fact that earlier laws are more probable to have been amended simply because of the longer time passed since they were published. It is clearly visible that the number of laws modified within one year was extraordinarily high in 2011 and 2012. This applies also for the rate of these modified laws (Figure 3.2.7.).

Figure 3.2.7.: Number of laws modified within one year, 2006-2013



Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Appendix 1.
Source: calculations by CRCB

Figure 3.2.8.: Share of laws modified within one year compared to all published laws, 2006-2013, %

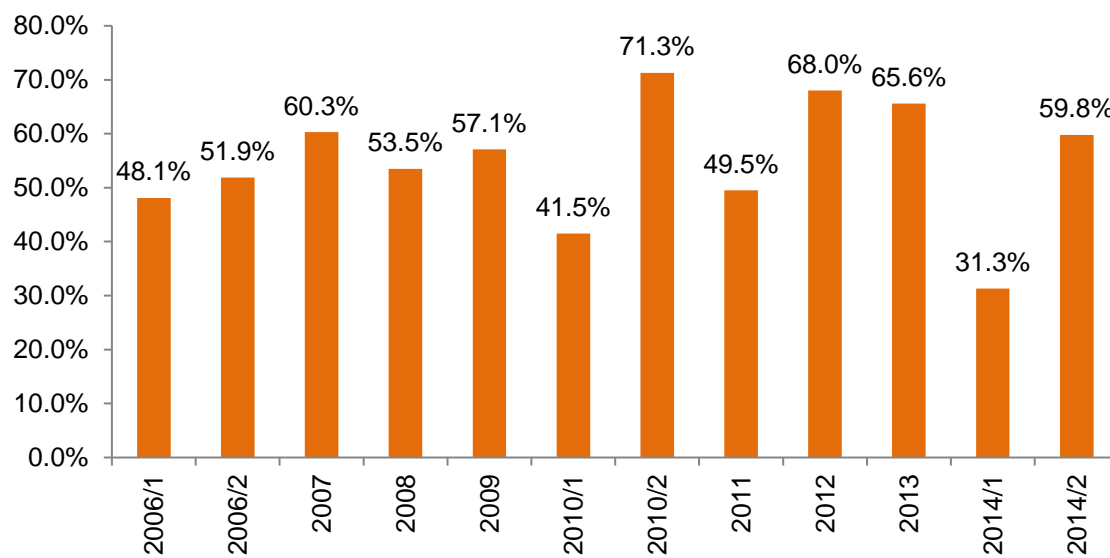


Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Appendix 1.
Source: calculations by CRCB

Improvised law making

In addition we should note that the share of the amending acts in the total number of bills seems to show some improvement since the second Orban-government came to power – this implies that the number of the amending acts became higher in the period between 2010 and 2014 than it was before because of the growing number of published laws. We should note that there was a break in the last months of the second Orban-government in 2014 that was probably influenced by the elections.

Figure 3.2.9.: Share of amending acts in total bills, 2006-2014, %



n=52, 81, 184, 114, 163, 41, 150, 212, 225, 212, 16, 97

Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Appendix 1.

Source: calculations by CRCB

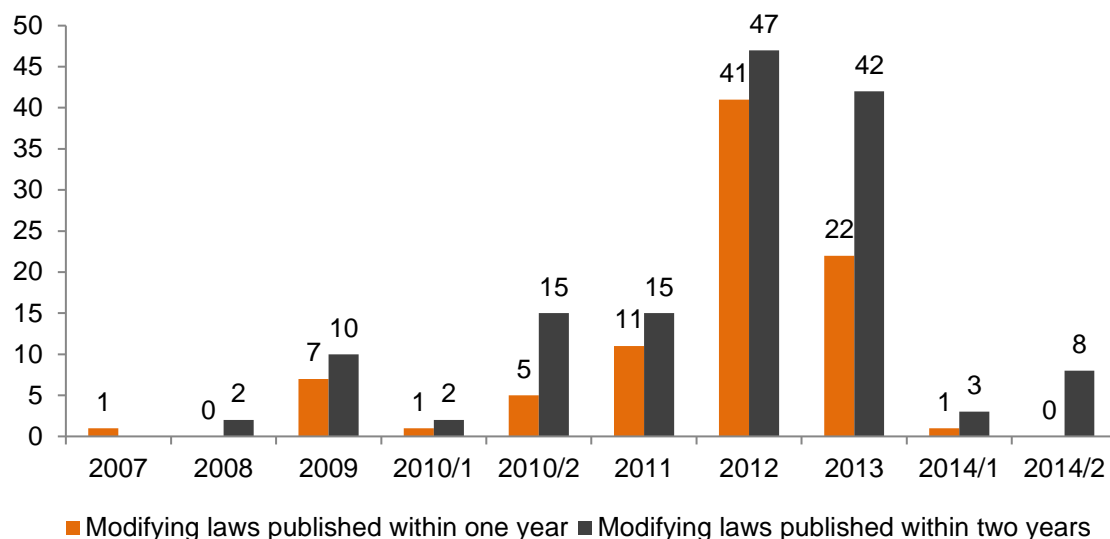
The amending acts can modify several laws at the same time, so the number of amendments included in these bills can better characterize the intensity of altering the legal environment. The number of amending acts modifying several²⁷ laws published within one year²⁸ reached a peak in 2012. In the last two years this number declined,

²⁷ At least two.

²⁸ This restriction is needed because the data available only since 2006. The analysis considers the amending acts that change several laws which were published maximum 365 days (or 730 in the case of the longer period) before the given amending act was published.

however considering such amendments regarding laws published within two years the decline between 2012 and 2013 was much slighter. It should be highlighted that Figure 3.2.10. is based only on the amending acts, not on all the published laws like the previous figures.

Figure 3.2.10.: Number of amending acts modifying several laws, 2007-2014



Note: When data concerning one year are represented in two parts, an election took place or the prime minister was changed. A list of prime ministers is available in Annex 1.

Source: calculations by CRCB

4. Case Studies

4.1 The Story of the Failed Hungarian Internet Tax Bill

The bill

On October 20th 2014 Minister of National Economy Mihály Varga introduced a bill²⁹ in the Hungarian Parliament that intended to modify, alongside other previously unrelated laws³⁰, the law governing the taxation of telecommunications in Hungary. The government did not conduct any impact assessment, and did not publish anything in connection with the amendment of the law.

The fiftieth page of this bill introduced an amendment to the Telecommunications Act imposing a new tax. Specifically, the tax was aimed at internet traffic: for each gigabyte of incoming or outgoing data, users would be required to pay 150 Hungarian forint, or just under half an euro (see figure 1.2.1. The yellow line is the important modification on internet fee.).

This new tax was a surprise to the public. There was no consultation, the legislation was not accompanied by an impact assesment, and no peer review was carried out. The tax received no introduction, reference or citation in other parts of the proposed modification. Despite its lack of visibility, the amendment was quickly noticed. The day after it became public, various online newsportals reported that the government was planning to tax internet traffic.³¹

²⁹ The amendment: "T/1705. számú törvényjavaslat az egyes adótörvények és azokkal összefüggő más törvények, valamint a Nemzeti Adó- és Vámhivatalról szóló 2010. évi CXXII. törvény módosításáról"

³⁰ Such a law, which modifies several previously unrelated laws at once, is referred to by Hungarian parliamentarians and lawyer as a 'salad law'. The inclusion of a regulation governing water management in the omnibus education bill is one example. Tax law is frequently modified in this way. The governing majority lovingly uses this method of legislating for two reasons. The first is that it offers a quick and easy way to modify existing laws without debate. The second reason for its popularity is that the resulting changes are opaque, offering political cover and limiting political risk in the case that the change is unpopular.

³¹ <http://444.hu/2014/10/21/jovore-megadoztatjak-az-internetet/>

Figure 4.1.1.: The internet tax proposal, with the proposed 150 forint rate highlighted, from page 50 of the amendment to the Telecommunications Tax Law.

„18. A távközlési adóról szóló 2012. évi LVI. törvény módosítása.
(...)
150. § A Tktv. 5. §-a helyébe a következő rendelkezés lép :

5. § (1) Az adó mértéke

a) a 4. § (1) bekezdésének a) pontja szerinti adóalap esetén, ha a hívást
aa) magánszemély előfizető előfizetéséhez tartozó hívószámról indítják, akkor hívásonként 2 forint/megkezdett perc,
ab) nem magánszemély előfizető előfizetéséhez vagy a szolgáltatóhoz tartozó hívószámról indítják, akkor hívásonként 3 Ft/megkezdett perc ,

b) a 4. § (1) bekezdés b) pontja szerinti adóalap esetén, ha az üzenetet:
ba) magánszemély előfizető előfizetéséhez tartozó hívószámról küldik, akkor 2 forint/darab,
bb) nem magánszemély előfizető előfizetéséhez vagy a szolgáltatóhoz tartozó hívószámról küldik, akkor 3 Ft/darab .

(2) A hívószámról indított hívások, küldött üzenetek utáni adó összege nem lehet több, mint:
a) magánszemély előfizető előfizetéséhez tartozó hívószám esetén 700 Ft/hó/hívószám,
b) nem magánszemély előfizető előfizetéséhez és a szolgáltatóhoz tartozó hívószám esetén 5000 Ft/hó/hívószám .

(3) Az adó mértéke a 4. § (2) bekezdése szerinti adóalap esetén 150 Ft/megkezdett gigabyte

(...)”

Hungarian internet data traffic is measured, though generally underestimated, by the BIX index.³² Industry analysts estimated that Hungarian internet traffic averages to around 20 gigabyte per second. This corresponds to tax revenue of around 3000 forint (about 10 Euro) per second or 20-25 billion forint (about 65-80 million euro) per year.

Journalists were quick to point out that the governing Fidesz party, while in opposition in 2008, opposed the taxation of internet traffic:

„The taxation of internet traffic is at once unnecessary, reckless and wrong, because it would deepen the digital divide already present in Hungary, and block new users from accessing the internet.”³³

Following the introduction of the bill, the government agreed to meet with industry representatives on October 22nd. At the meeting, Minister Varga explained that an internet tax was necessary because of the shift from traditional telephone use to online

³² <http://bix.hu/index.php?lang=en&page=graph&swid=Summary&portid=BIX-IPv4-Total>

³³ <http://www.fidesz.hu/hirek/2008-04-26/az-internetado-tervenek-visszavonasara-szolit-fel-a-fidesz/>

communication. In this way a tax on data traffic would cut down on „tax avoidance” and „close loopholes³⁴”. At this juncture it became clear that the government had not considered the impact of this decision on the everyday life of private individuals and firms. The tax was viewed as serious impediment to the sharing of information, and a barrier to the effective day-to-day operation of businesses.

Reaction of Internet users

Opposition to the internet tax was quickly organized. The Facebook group 'Százzezren az internetadó ellen' (100,000 Against the Internet Tax) formed on October 21st planned a protest for the 26th.³⁵ By the time of the protest 36,000 users indicated that they planned to attend.³⁶ The main protest took place in the heart of Budapest. Participants marched from József Nádor Square in downtown Pest, up Andrásy Street to the Fidesz party headquarters near Hero's Square. Following the end of the official demonstration, some protestors remained at the Fidesz party headquarters, smashing old computers, prints and keyboards against the building's walls. Organizers of the demonstration promised to continue with a series of protests if the internet tax was not withdrawn.

In response to widespread outrage in Budapest and other cities, Fidesz parliamentary group leader Antal Rogán filed an amendment to the law capping the tax paid per subscription at 700 forint (just above two euros) a month for individuals and 5,000 forint (just above 15 euros) a month for businesses.³⁷ Additionally, he stressed that the burden of the tax would be placed on the internet service providers and not the users. This was not received as reassuring. On October 28th the Hungarian Association of Internet Service Providers released a study based on data from the Hungarian Central Statistical

³⁴ <http://444.hu/2014/10/22/varga-mihaly-tisztazta-internetado-adoelkerules-felszamolasa/>

³⁵ „Százzezren az internetadó ellen” Facebook group: (<https://www.facebook.com/Ne.legyen.Internetado?fref=nf>). Within weeks more than 200,000 users joined the group.

³⁶ <http://444.hu/2014/10/26/indul-a-netado-elleni-gigatuntetes/>

³⁷ <http://www.parlament.hu/irom40/01705/01705.pdf>

Office which estimated the cost of the tax amounting to 12-15% of total turnover.³⁸ The message was clearly that an increase in prices would follow the introduction of the tax.

The second protest organized by the „100,000 Against the Internet Tax” facebook group also took place on October 28th, just two days after the first protest, fulfilling the organizers’ promise to continue until the tax had been withdrawn from consideration. Again the protest began at József Nádor Square, crossing Erzsébet Square and passing the Astoria Hotel on its way to Erzsébet Bridge. The image of the protestors on the bridge, illuminating the night with their cellphones made it into media around the world.³⁹ The protest ended at the 0 kilometer stone at Clark Adam Square, chosen to convey that the protestors would pay no forint in internet tax. Smaller protests took place in other Hungarian cities and towns, showing that the demonstration was taking place at a national level.⁴⁰

³⁸ The new tax would cost the entire industry around 164 billion forint in revenues, between 12-15% of total revenue. See: „Az internetadó tervének értékelése az Internet Szolgáltatók Tanácsa által, 2014. október 28.” (<http://www.iszt.hu/iszt/docs/adotervhatasa.pdf>)

³⁹ <http://www.theguardian.com/world/2014/oct/29/hungarians-protest-internet-tax-plan-orban>

⁴⁰ See: Orbán Viktor, itt a magyar nép beszél! (Viktor Orbán, here the Hungarian People speak!): http://index.hu/belfold/2014/10/28/orban_viktor_itt_a_magyar_nep_beszeli/

Figure 4.1.2.: Protestors against the Internet Tax Bill in Budapest on Erzsébet Bridge, October 28th, 2014



. Source: <http://img.444.hu/tuntetes11.jpg>

The withdrawal of the bill

On October 31st Prime Minister Viktor Orbán revealed in a morning radio address on Kossuth radio that the internet tax had been withdrawn.⁴¹ ⁴² He explained that “the technical tax amendment introduced a few days ago which, having become a notion bringing forth fearful visions, became it impossible to discuss.” As a result, “it is necessary to restore the foundations of reasonable result, which is not possible today ... the debate has gone awry.” The government would withdraw the bill, because they “are not communists, and we do not govern against people, but rather govern with the people.”

⁴¹ <http://www.hirado.hu/2014/10/31/miniszterelnoki-interju-a-kossuth-radioban/>

⁴² <http://hungarytoday.hu/cikk/73195-2-breaking-news-orban-withdraws-internet-tax-25502>

Additionally, Orbán posited that the amendment was not practical in its present form, and that the tax would impede the planned 2018 nationwide broadband rollout project.⁴³

On the other hand, Orbán also announced a “national consultation” of surveys and questionnaires about the internet and related financial and regulatory questions to start in January 2015. Orbán is “curious, where the large extra profits of the internet services go, and if part of those profits could be kept in Hungary.”⁴⁴ ⁴⁵ The national consultation was later pushed back to start on February 3rd, and will be lead by Fidesz’s Tamás Deutsch, a Member of the European Parliament.⁴⁶ More details on the form and goals of the consultation are not yet available.

⁴³ Beyond this, self-critically in response to the general social outrage: „... The government must accept, that it is reasonable to be measured against expectations in every action.” See, from 12:20:

⁴⁴ <http://www.hirado.hu/2014/10/31/miniszterelnoki-interju-a-kossuth-radioban/>

http://index.hu/belfold/2014/10/31/deutsch_tamas_vezeti_majd_a_netadorol_szolo_nemzeti_konzultaciott/

⁴⁵ <http://www.kormany.hu/hu/a-miniszterelnok/hirek/ebben-a-formaban-nem-lehet-bevezetni-az-internetadot>

⁴⁶ http://magyarhirlap.hu/cikk/15276/Deutsch_Februar_3an_indul_az_internetrol_szolo_nemzeti_konzultacio

4.2. The Advertising Tax

Background

On 11th June 2014 the Hungarian Parliament passed the bill on advertising tax submitted by a Fidesz party MP, Laszló L. Simon in an expedited procedure. The government did not conduct any impact assessment, and did not publish anything in connection with the law. Advertising has not previously been subject to taxation in Hungary. In the initial version of the law the subjects of tax were the entities generating income from putting ads into their media time or space or advertising for their own purposes:

- media content service providers as defined in the Act on Media Service Providers and Mass Communication established in Hungary,
- media service providers making media content available in the territory of Hungary in Hungarian language in at least half of their daily broadcasting time,
- publishers of press products not qualifying as media service providers,
- persons or organizations utilizing any outdoor advertisement carrier or any vehicle, printed material or real property for the placement of advertisements,
- publishers of advertisements in the case of advertisements published on the internet.⁴⁷

The initial law⁴⁸ on advertising tax introduced a tax rate rising progressively by tax brackets: 0% applies up to HUF 500 million of tax base and to the amount over HUF 20 billion 40% is applicable. Before the bill was passed, in the last minute it was amended to make it possible to reduce the tax base in the previous year by 50% of tax loss carry

⁴⁷ <http://www.rsmdtm.hu/advertisement-tax>

⁴⁸ Act XXII of 2014 on advertising tax (the last version with modifications see: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1400022.TV)

forward as defined by the Act on Corporate Income Tax and the Act on Personal Income Tax.⁴⁹ The law about advertising tax came to force on the 18th July 2014.

The European Commission raised its concerns about the new tax in June 2014 saying it could violate the media freedom in Hungary.⁵⁰ The domestic and even the foreign media suggested that RTL Hungary, owned by a German media firm Bertelsmann, is expected to hit the hardest. RTL commented the tax “the objective of the introduction of this tax is nothing less than an aggressive attempt by the government to undermine the biggest media company of the country, which has proved its independence from the political parties and the government over the past 17 years”. Neelie Kroes, European Commissioner for Digital Agenda between 2010 and 2014 posted her concerns on the blog of the Commission about the new tax on the 28th July 2014.⁵¹ She also revealed that RTL is disproportionately affected by the ad tax as being the only company that would face the highest rate of tax, and concluded that “the Hungarian Government does not want a neutral, foreign-owned broadcaster in Hungary; it is using an unfair tax to wipe out democratic safeguards, and see off a perceived challenge to its power.” In addition she expressed her worries about the contrast between the EU’s values and the Hungarian ad tax: “Taxation cannot be an instrument for discrimination, and tax policy should not be a political weapon.”

The Organization for Security and Co-operation in Europe (OSCE) found that during the campaign of the parliamentary elections last year, RTL Klub, the market-leading television channel in Hungary, was one of the channels that did not show bias towards the ruling Fidesz party. It covered Fidesz in both positive and negative tone 45 per cent of the time monitored⁵². However the Hungarian Government found that RTL was biased against the government between September 2012 and May 2013 on a media analysis⁵³ conducted by Médianéző Kft., a research institute operating close to Fidesz⁵⁴. In the monitored

⁴⁹ http://www.pwc.com/hu/hu/hirujzagok/assets/adohirujzag/tax_alert_521.pdf

⁵⁰ <http://www.wsj.com/articles/eu-concerned-hungarys-advertising-tax-may-curb-media-freedom-1402665651>

⁵¹ https://ec.europa.eu/commission_2010-2014/kroes/en/blog/media-freedom-remains-under-threat-hungary

⁵² <http://www.osce.org/odihr/elections/hungary/121098?download=true>

⁵³ http://issuu.com/bodoky/docs/rtlelemzes_1_1

⁵⁴ http://hvg.hu/itthon/20121203_Nezopont_allam_kormany_megrendelesek

period 21 per cent of the news about the government were positive, 27 per cent were negative and 52 per cent were neutral on RTL Klub. In comparison, the research summary concludes that the polarization of the programme of TV2 – a channel in property close to the government⁵⁵ – was much more favourable (35 per cent positive, 12 per cent negative, 53 per cent neutral). It should be added here, that TV2 could benefit from the option of tax reduction for loss-making companies.

Nevertheless the Prime Minister Viktor Orbán said in his usual Friday morning interview on the public broadcaster “[Kossuth Rádió](#)” two days after passing the bill on ad tax when the interviewer asked him about the economic requirements of the new tax: “There is no requirement, only justice. It is just that those who achieve greater profits and who operate with larger profit margins should pay more taxes. This same principle is valid for the banks and everyone else. The banks used these exact same arguments, the telecommunications sector put forward these exact same arguments and the multinationals came forward with these exact same arguments. There is nothing new in this train of thought; this is a sectorial tax that already exists in Hungary with regard to other sectors, and now the advertising sector will also be included.”⁵⁶ The submitter of the bill, Mr. L. Simon claimed that with the creation of the new tax they wanted to push the media forward to higher standards.⁵⁷

Modifications

On 30th June 2014 Mr. L. Simon submitted the first amendment of the law about ad tax.⁵⁸ Because of an earlier financial transaction of RTL Hungary, it seemed that it could also benefit from the possibility of reducing the tax base, but after the modification, it became clear, that RTL Hungary has to pay the ad tax. Meanwhile the change did not affect any other media companies that were concerned with reduction of tax base within the conditions of the original regulation. The adjustments also closed some loopholes of the

⁵⁵ <http://vs.hu/mind/osszes/itt-a-kapcsolat-a-fidesz-es-a-tv2-eladasa-kozott-0120#!s8>

⁵⁶ <http://www.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/income-tax-could-go-down-to-single-digits-during-the-current-term>

⁵⁷ <http://mno.hu/belfold/l-simon-az-igazsagos-kozteherviseles-resze-lesz-a-reklamado-1231492>

⁵⁸ <http://www.parlament.hu/irom40/00467/00467.pdf>

initial tax law that made possible to evade the ad tax by sales houses and foreign-registered companies. What is more, it extended the duty of paying the ad tax with a universal 20 per cent tax rate for the cost of ads over HUF 25,000 to the procurers of the advertisements if the advertiser does not pay the tax. Practically this means that tax has to be paid after Google and Facebook advertisements. The limit of HUF 25,000 was changed to HUF 2,500,000 a few days later.

In November 2014 the law on advertising tax was amended again⁵⁹. The amendment introduced an exemption for the procurers of the advertisement from the advertising tax if they proof that they had required a statement from the media company about paying the ad tax, but did not receive it within ten days from receiving the invoice.⁶⁰ But in the meantime the highest tax bracket was changed from 40 per cent to 50 per cent. The only media company that is subject of the highest tax bracket is RTL Hungary, who submitted a complaint to the European Commission in October claiming that the ad tax is discriminative and distorts the competition.⁶¹ It worth to mention here that in June 2014 the proportion of the political reports in the news programme of RTL Klub started to rise and became critical to the government⁶²⁶³. Since the tone of the news programme changed, the number of its viewers also started to rise.⁶⁴

Angela Merkel's visit

A day after Angela Merkel's official visit, on 3rd February 2015, János Lázár, the Minister of Prime Minister's Office suggested a new amendment of the advertising tax: a flat tax system instead of the tax brackets.⁶⁵ The minister said that the Directorate-General for Competition of the European Commission is expressing its concerns about the Hungarian

⁵⁹ Act XXII of 2014 (See the last version with modifications:

http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1400022.TV)

⁶⁰ <http://www.hirado.hu/2014/11/18/szakerto-a-reklamado-modositas-a-hirdetoknek-kedvez/?source=hirkereso>

⁶¹ <http://www.origo.hu/gazdasag/20141112-a-reklamtorveny-modositasa-leginkabb-a-rtl-klubot-sujtana.html>

⁶² http://nezopontintezet.hu/files/2014/06/Nezopont_Intezet_hiradoelemzes0626.pdf

⁶³ http://nezopontintezet.hu/wp-content/uploads/2015/01/Nezopont_Intezet_Hiradoelemzes_Q4.pdf

⁶⁴ <http://brandtrend.hu/nezettseg/>

⁶⁵ <http://www.kormany.hu/en/prime-minister-s-office/news/janos-lazar-recommends-reduction-of-advertising-tax>

advertising tax in both formal and informal ways. The DG objected to the advertising tax's progressive system claiming that it provides a selective economic advantage to companies with low advertising revenue, and also to the level of tax in a letter at the end of January 2014. Mr. Lázár also confirmed that the government is negotiating with the Bertelsmann since November 2014 in both Luxembourg and Budapest to find a solution to the situation out of court and without the need for a European Commission procedure.

However in the end of January assumptions appeared in the Hungarian media about a bargain between the Hungarian government and the leadership of the Bertelsmann, as the government was trying solve the issue before Merkel's visit⁶⁶: the government moderates the taxes of RTL and the RTL eases on its criticism against the government.⁶⁷ Both of the parties confirmed indirectly the negotiations. Nevertheless on 2nd February, Andreas Rudas, the regional director of RTL for Southeast-Europe, met the staff of RTL Klub and assured them that there will be no changes in news editing policy.⁶⁸

After Mr. Lázár referred to the 5 per cent Austrian advertising tax rate several times, and Antal Rogán, the leader of the parliamentary group of Fidesz stated that the Fidesz-KDNP faction granted the authority to the government to continue the negotiations and come up with amendments, Lajos Simicska, owner of several government-friendly media outlets, said that he would retaliate with a "total media war" against the ruling parties.⁶⁹ The planned changes would adversely affect the smaller media outlets – like the ones that Mr. Simicska owns – because they would have to pay according to the flat tax rate instead of the lowest 0 per cent tax bracket. As the top management of Mr. Simicska's media empire – committed to the government – resigned on the next day, Mr. Simicska went berserk and gave several interviews saying pejorative adjectives about Mr. Orbán, who used to be his close friend for decades.⁷⁰

⁶⁶ <http://nol.hu/belfold/az-rtl-targyal-a-kormannyal-de-folytatja-a-fuggetlen-hirszolgaltatast-1512351>

⁶⁷ <http://444.hu/2015/01/29/rtl-kormany-alku-csak-arcvesztes-ne-legyen/>

⁶⁸ <http://444.hu/2015/02/04/gerkens-mehet-a-hirado-hangvetele-egyelore-marad-az-rtl-nel/>

⁶⁹ <http://nepszava.hu/cikk/1047595-simicska-akkor-totalis-haboru-lesz-veszelyben-a-demokracia>

⁷⁰ <https://hungarianspectrum.wordpress.com/2015/02/06/a-different-kind-of-media-war-lajos-simicska-versus-viktor-orban/>

On 10th February 2015, Mr. Lázár said in an interview given to Kossuth Rádió that the advertising tax will remain and the most important objective of the government is to maintain the system of special taxes⁷¹. He added that the rate of tax is still under consideration and referred to the Austrian advertising tax again. He also told that he received the mandate from Mr. Orbán and the Fidesz to lead negotiations with those who subject to the ad tax – even with Bertelsmann – in order to prevent procedures by the European Commission. Mr. Orbán will hold talks with him on 24th February. Mr. Lázár, the Prime Minister’s Office and the Bertelsmann also have prepared proposals.

⁷¹ <http://www.kormany.hu/en/prime-minister-s-office/news/the-advertising-tax-remains>

4.3. The New Hungarian Citizenship Law

This case study examines corruption risks and mechanisms associated with the modification of the Hungarian policy on dual-citizenship in 2010.⁷² Under the new rules, obtaining a Hungarian passport as a second citizenship became much easier. The government did not conduct any impact assessment, and did not publish anything in connection with the law. The corruption in question pertains to the acquisition of documents required to successfully apply for the Hungarian citizenship under the new system. Following Rees' principal-agent formulation⁷³ the client is the individual seeking a Hungarian passport, the corrupt official is the agent and the Hungarian state is the principal.

We first briefly summarize the history of the citizenship law in Hungary, including the background to the amendment. Then we study the specifics of the new legal framework and how it can be misused by heads of local governments for corrupt ends. Throughout we focus on the situation of those seeking Hungarian citizenship from Ukraine.

Background

There are two distinguished groups of Hungarians living outside the borders of modern Hungary. Out of approximately 14-15 million Hungarians world wide, 10 million live within Hungary, about 2.2 million live in neighboring countries in areas belonging to Hungary before 1920, and the rest live elsewhere⁷⁴. This situation insures that policy towards Hungarians abroad is a prominent political issue. The idea of granting all ethnic Hungarians abroad automatic citizenship was proposed by the World Hungarian

⁷² The text of the amendment to the original Hungarian citizenship law (1993. évi LV. törvény T/29) is available [here](#).

⁷³ See: Rees, Ray (1985): The Theory of Principal and Agent - Part I, Bulletin of Economic Research 37:1, 1985

⁷⁴ See http://en.wikipedia.org/wiki/Treaty_of_Trianon and http://en.wikipedia.org/wiki/Hungarian_irredentism

Federation (Magyarok Világszövetsége)⁷⁵ in the late nineties⁷⁶. By 2004 the idea had enough support that it was put to a referendum. Although at first no political party with representatives in Parliament supported the measure, center-right Fidesz (the party of current PM Viktor Orbán, then in opposition) began to campaign for the measure when then-PM Ferenc Gyurcsány of MSZP (the Hungarian Socialist Party) took a strong stance against the referendum.

The campaign was an emotional one for both sides⁷⁷, but ultimately the referendum was declared invalid because of low voter turnout. Nevertheless, the issue became an important part of the Fidesz agenda. By 2010 nearly every party in the Hungarian political spectrum supported the notion of a simplified process for dual-citizenship for ethnic Hungarians abroad. Indeed, the citizenship amendment was one of the first acts passed by the newly elected Fidesz government in 2010⁷⁸. The large amount of publicity around the amendment increased its symbolic presence in Hungarian political life⁷⁹. The resulting rush job ignored input from opposition parties and left some members of Fidesz's leadership in the uncomfortable situation of not being able to recall the details of the law when pressed by reporters⁸⁰.

The amendment required that an applicant prove two things to obtain a Hungarian passport: an ancestor with Hungarian citizenship, for any length of time, before 1920 or

⁷⁵ Founded in 1938, the World Hungarian Federation was formed to unite Hungarians living around the world. After the Second World War its activities intensified as it simultaneously served as an organ of Soviet propaganda. Later the group focused on luring back recent emigrants and on elites in the diaspora. From 1989 to 1992 the organization took on a "national-Christian" orientation. It was not taken seriously by the post-socialist governments, and slowly drifted to the far-right, adopting anti-democratic rhetoric while undergoing several financial scandals. See "Viszálykodás a Magyarok Világszövetségében: Agyarra, magyar!", Magyar Narancs, 1999.06.10.

http://magyarnarancs.hu/belpol/viszalykodas_a_magyarok_vilagszovetsegeben_agyarra_magyar-61258.

⁷⁶ See: Bakk, Miklós (2005): A "kettős állampolgárság" kronológiája, MTA Etnikai-Nemzeti Kisebbségkutató Intézet, Teleki László Intézet Közép-Európai Tanulmányok Központja, 2005, <http://www.kettosallampolgarsag.mtaki.hu/kronologia.html>

⁷⁷ See "Tények és hazugságok a kettős állampolgárságról", index.hu, 2004.11.30. <http://index.hu/belfold/tenyhaz1125/>

⁷⁸ See "Elfogadták a kettős állampolgárságról szóló törvényt", index.hu, 2010.05.26. http://index.hu/belfold/2010/05/26/elfogadtak_a_kettos_allampolgarsagot/

⁷⁹ See "Semjén: A kettős állampolgárság eltörli a lelki Trianon szégyenét", index.hu 2010.08.20. http://index.hu/belfold/2010/08/20/semjen_a_kettos_allampolgarsag_eltorli_a_lelki_trianon_szegyenet/

⁸⁰ See "Tények és tévhitek a kettős állampolgárságról", index.hu, 2010.05.12. http://index.hu/belfold/2010/05/12/kettos_allampolgarsag/

between 1938-1945 (when Hungary temporarily reclaimed territories lost at the end of the First World War), and a minimal level of Hungarian language knowledge.⁸¹ The certification of ancestry and Hungarian language ability can be carried out at any local Hungarian government office or registrar, or, if abroad, at official Hungarian delegation offices. The law came into effect on January 1, 2011⁸².

The Application Process in Practice and Related Corruption

Applying for Hungarian citizenship under the new framework was most difficult for Ukrainian citizens. The 2001 Ukrainian census estimated that over 150,000 ethnic Hungarians lived in the country. Ukraine outlawed dual-citizenship and began to actively enforce the ban⁸³. As a result many applicants avoided visiting their official Hungarian delegation offices, as they could be observed by Ukrainian police, and traveling to Hungary, as the necessary visa application could arouse suspicion. Instead a small industry of under the table methods emerged. Through expensive intermediaries applicants would send their documents to Hungary and have a third party physically submit the application in a village registry or government office⁸⁴.

The government official, usually either a mayor or notary, takes a bribe in exchange for certifying the applicant's Hungarian knowledge and forwards the application, everything in order, to the Immigration and Citizenship Office in Budapest. The typical applicant could expect to take the citizenship oath and obtain a passport four to six months later. According to the media the process costs anywhere between 5,000 and 30,000 Euros⁸⁵.

⁸¹ In addition to the ancestral and linguistic requirements, the law also requires that applicants not be risks to public safety or national security. The previous law required a Hungarian address and a more rigorous exam on Hungarian language and constitutional and historical knowledge.

⁸² See "Hatályba lépett a módosított állampolgársági törvény", kitekinto.hu, 2010.08.20.,

<http://kitekinto.hu/karpat-medence/2010/08/20/hatalyba-lepett-a-modositott-allampolgarsagi-torveny/#.VNIHNy4zsu0>

⁸³ See "Megbírságot kaptak Ukrajnában a kettős állampolgárságukat eltitkolókat", index.hu, 2012.10.03.

<http://index.hu/kulfold/2012/10/03/megbirsagoljak-ukrajnaban-a-kettos-allampolgarsagukat-elitkolokat/>

⁸⁴ Index (2014a): Ukrán maffia osztja tízezrével a magyar állampolgárságot, Index.hu, 2014.09.16.

<http://index.hu/gazdasag/2014/09/16/magyar-nyelven-szavaltak-szep-magyar-szoveget/>

⁸⁵ See "Honosítás: keleti 'mellékhatások'", Kárpáti Igaz Szó, 2013.10.09.

<http://kiszo.hhrf.org/?module=news&target=get&id=15295> and

"Magyar állampolgárság: 5000 eurós ajánlat", Kárpátja.ma, 2013.09.28.

<http://www.karpatalja.ma/karpatalja/nezopont/magyar-allampolgarsag-5000-euros-ajanlat/> and "Ukrán

Aside from the individual or group facilitating the transaction, the local government official could expect a windfall of about a thousand Euros for each application sent off ⁸⁶.

The profitable exercise of organizing these applications soon fell under the watch of criminal gangs. A fundamental information asymmetry supports their system: Ukrainians believed that the regular application process was long and difficult and that these gangs could provide an easy alternative with no travel requirements. The gangs also began to assist Ukrainians without any Hungarian ancestry or Hungarian language knowledge apply as well – in either case the documents were fraudulent anyway.⁸⁷ Taking the oath was one potential source of trouble, but it can easily be learned as a poem or another official could be bribed⁸⁸.

Estimates suggest that around 80% of fraudulent applications resulted in granting of citizenship without further difficulty or inspection. In total Ukrainian groups have helped several tens of thousands of applications with forged documents. This does not include the activities of Russian groups⁸⁹. In 2013 alone the Carpathian Hungarian Cultural Society's president estimates that over 10,000 applicants from Ukraine with fraudulent documents were granted citizenship⁹⁰.

By August 2014 around 89,000 people obtained Hungarian citizenship on the basis of Ukrainian documentation of Hungarian ancestry. Around 10,000 applicants were

maffia osztja tízezerrel a magyar állampolgárságot", index.hu, 2014.09.16.

http://index.hu/gazdasag/2014/09/16/magyar_nyelven_szavaltak_szep_magyar_szoveget/

⁸⁶ See "Ukrán maffia osztja tízezerrel a magyar állampolgárságot", index.hu, 2014.09.16.

http://index.hu/gazdasag/2014/09/16/magyar_nyelven_szavaltak_szep_magyar_szoveget/

⁸⁷ The verification of Hungarian ancestry from 1938-1945 or before 1920 in Ukraine is carried out by different Ukrainian state bodies or churches with varying amounts of scrutiny. Fraudulent applicants may also include non-Ukrainian nationals like Russian citizens. See "Ukrán maffia osztja tízezerrel a magyar állampolgárságot", index.hu, 2014.09.16.

http://index.hu/gazdasag/2014/09/16/magyar_nyelven_szavaltak_szep_magyar_szoveget/

⁸⁸ See "Ukrán maffia osztja tízezerrel a magyar állampolgárságot", index.hu, 2014.09.16.

http://index.hu/gazdasag/2014/09/16/magyar_nyelven_szavaltak_szep_magyar_szoveget/

⁸⁹ See "Ukrán maffia osztja tízezerrel a magyar állampolgárságot", index.hu, 2014.09.16.

http://index.hu/gazdasag/2014/09/16/magyar_nyelven_szavaltak_szep_magyar_szoveget/

⁹⁰ See: Kovács Miklós: Árucikk lett a magyar állampolgárság Kárpát-Ukrajnában, atlatszo.hu, 2013.05.08.

<http://atlatszo.hu/2013/05/08/kovacs-miklos-arucikk-lett-a-magyar-allampolgarsag-karpat-ukrajnaban/>

rejected⁹¹. Following recent estimates that 141,000 ethnic Hungarians live in Ukraine ⁹², this would suggest that nearly two-thirds of the Ukrainian Hungarian population has taken Hungarian citizenship within four years if all applications were kosher. This is a very high number for such a program.

Analysis

This example of corruption in Hungary derives from the immense discretionary power that the amendment to the citizenship law granted local government officials combined with the legal and logistical difficulty of examining outcomes in retrospect. The requirements are too vaguely defined in the case of language ability, and too accomodating in the case of proof of ancestry. An EU, indeed Schengen, passport, obtained quickly and without questions, can be extremely valuable to non-EU citizens – certainly worth an investment of thousands of Euros.

We can say that the combined failure of ad-hoc legislation and the value of an EU passport that is driving an immense amount of corruption. The regulatory failure of the Hungarian state has three components: the documents required cannot be objectively verified in a reasonable manner, an inordinate amount of discretion is granted to local government officials to decide on any case presented to them, and finally that no central electronic database has been established to review cases.

A back of the envelope calculation suggests that if only a fifth of all applicants were carried out fraudlently, and that these applications cost 10,000 Euros on average, then Ukrainian criminal gangs have seen around 180 million Euros in revenue from their system. On the Hungarian side, if bribes to officials amount to 1,000 Euros on average, around 18 million Euros in bribes have been paid to local Hungarian officials in this framework.

⁹¹ See “Ma is jönnek a hamisított magyarok”, index.hu, 2014.09.17.
http://index.hu/gazdasag/2014/09/17/ma_is_jonnek_a_hamisitott_magyarok/

⁹² See “Kárpátaljai magyarok: hányan vagyunk?” Kárpátinfo.net, 2013.01.27.
<http://www.karpatinfo.net/hetilap/ukrajna/karpataljai-magyarok-hanyan-vagyunk>

The clear and present risks observed today stand uncomfortably next to the fact that no impact assessment was carried out prior to the amendment's passage.

Epilogue

A more restricted process was put in place from March 2013. No longer can any local government official perform the required certifications. Instead applicants must schedule appointments at one of around 300 government offices around the country to submit documents. This has increased the cost of the services provided by the Ukrainian gangs, but has not stopped their system from working⁹³.

The scope of corruption related to the dual-citizenship amendment is not limited to the Ukrainian situation. There is also evidence of widespread fraud in Serbia, also a non-EU country with a sizable Hungarian minority. The Hungarian Consul in Subotica has indicated that he is aware of fraud, but that he is not involved himself or his associates⁹⁴.

There are also problems in Romania, which though an EU-country is not Schengen. Additionally a Hungarian passport does not require a visa for travel to the US or Canada while a Romanian one does. The number and geographic diversity of Romanians with some Hungarian ancestry is quite high, making verification of authenticity extremely difficult. In other words, it is easy to 'find' a Hungarian relative somewhere in the family tree. Applicants from Romania have included a minister suspected of corruption, and the county leader of a political party⁹⁵.

In contrast, Hungarians in Slovakia have not applied for Hungarian passports in great number. Around half of one percent of the entire minority have taken up a second passport. While the Slovakian government has outlawed dual-citizenship, the numbers are also certainly low because there is not much added value for a person with a

⁹³See "Ma is jönnek a hamisított magyarok", index.hu, 2014.09.17. http://index.hu/gazdasag/2014/09/17/ma_is_jonnek_a_hamisitott_magyarok/

⁹⁴ See "Honosítási visszaélések - Beszélgetés Korsós Tamás szabadkai főkonzullal", Delhir.info, 2013, <http://www.delhir.info/multimedia/videotar/video/latest/honositasi-visszaelesek-beszelgetes-korsos-tamas-szabadkai-fkonzullal>

⁹⁵ See "Transilvania Reporter stârneşte polemici în presa maghiară", Transilvania Reporter, 2013.08.29. <http://transilvaniareporter.ro/satu-mare/transilvania-reporter-st/>

Slovakian passport to take a Hungarian one as Slovakia is in the EU and Schengen zone⁹⁶.

The Hungarian state has uncovered only 20 cases in which citizenship was obtained fraudulently⁹⁷. The government's response to articles on this topic suggested that the journalists involved were working with „*unfriendly intelligence services*” and that „*those who work with foreign intelligence services in conflict with Hungarian national goals are committing treason.*”⁹⁸ Though the government claims there is nothing to refute, it has not released data which may help investigators and journalists determine specifically how the system of fraud really works⁹⁹. Most of the illegal activities are almost certainly taking place in a few villages and towns under the watch relatively few individuals¹⁰⁰.

⁹⁶ See “Ma is jönnek a hamisított magyarok”, index.hu, 2014.09.17.

http://index.hu/gazdasag/2014/09/17/ma_is_jonnek_a_hamisitott_magyarok/

⁹⁷ See “Eddig 20 állampolgárság-csalót kaptak el”, index.hu, 2014.09.25.

http://index.hu/gazdasag/2014/09/25/allampolgarsag_csalas_ukran_orosz_egyszerusített_honositas/

⁹⁸ See “Semjén: Az Index, az MSZP és a DK összehangolt támadást indított”, index.hu, 2014.09.17.

http://index.hu/belfold/2014/09/17/semjen_az_index_az_mszp_es_a_dk_összehangolt_tamadast_inditott/

⁹⁹ See “Semjénék eltitkolnák, hogyan osztják az állampolgárságot”, index.hu, 2014.12.10.

http://index.hu/gazdasag/2014/12/10/allampolgarsag_miniszterelnokseg_adatigenyles_ukran_maffia/

¹⁰⁰ See “Cégtemetők Szabolcsban”, Világgazdaság, 2009.12.28.

<http://www.vg.hu/kozelet/jog/cegtemetok-szabolcsban-300710>

4.4. The Tobacco Trade Law

Background

The following case study deals with Law CXXIV (2012) (the Tobacco Trade Law) which radically changed the regulation of the tobacco trade market in Hungary, and the market structure itself. We can describe the new regulation as a considerable step from free market to heavily regulated market where the entry permission to the market is licenced and allocated by the state. During this allocation process the decision makers had space to use their power to allocate entry permission subjectively. The government did not conduct any impact assessment, and did not publish anything in connection with the law. The new regulation had considerable undesirable failures and disturbers: after the new legislation there were 1500 settlements without a shop of tobacco sales¹⁰¹.

The tobacco trade law was first mentioned at the end of 2011 when János Lázár, the then-fraction leader of Hungary's governing party Fidesz, presented a bill aimed at giving the state complete control over the tobacco trade, with an emphasis on reducing access of youth to harmful products¹⁰². According to this law, tobacco retail would be an absolute monopoly: the right to operate tobacco-selling commercial units would be given by the minister responsible for budget and tax cases, for a minimum of 20 and a maximum of 30 years. The government did not make any impact assessment, or published in connection with the law.

The idea of new regulation of tobacco market came as a complete shock not only for the public but also for the tobacco companies themselves. The state was planning to practically nationalize a big piece of the market economy. This new law proposal came at

¹⁰¹ " [The] .unexpected development and the high and growing number of loss making tobacco shops forced the government (and the state company responsible for the tobacco market) to modify permanently the regulation in a short period of time. The main reason for the market disturbances was the artificial restructuring of the market of tobacco products" See the study of Mihály Laki: A trafikpiac átalakulása és átalakítása. Esettanulmány "(Restructuring and re-regulation of the Hungarian tobacco market – a case study) <http://econ.core.hu/file/download/mtdp/MTDP1410.pdf>

¹⁰² See http://index.hu/belfold/2011/12/16/a_szakszeruseg_erdekeben_allamositjak_a_dohanykereskedelmet/

a time when the tobacco companies were suffering from a big loss of income in Hungary in the wake of the banning of smoking in bars and restaurants from July 2011¹⁰³.

The bill also impacted the competition between tobacco brands since it mandated that shops sell all types of cigarettes, regardless of popularity or demand. This was a clear boost to unloved Hungarian brands with small market share. Many experts' opinions arrived to highlight such problematic, but János Lázár said „*multinational tobacco companies only want to oppose the government, they even play it as a sport*”¹⁰⁴.

On the other hand the bill was made by the cooperation of Lázár's team and János Sánta CEO and owner of Continental S.A. one of the main leader companies in the Hungarian tobacco market¹⁰⁵. The Hungaria on-line portals index.hu and napi.hu have revealed that the bill was written on the Sánta's laptop¹⁰⁶. Obviously this "tailor made" legislation helped the Hungarian owned Continental S.A. to increase their market share further. This is a clear and beautiful implementation of the procedure which a former member of the parliament characterized the lawmaking of the electricity market in Hungary in 2009 as follows: „*...the lawmaking process means that the market participants will write the bill...*”¹⁰⁷.

¹⁰³ See <http://www.origo.hu/itthon/20110223-dohanyzas-betiltjak-a-vendeglatohelyeken-kocsmakban-ettermekben-a-cigit.html>

¹⁰⁴ See http://index.hu/gazdasag/magyar/2012/03/05/lazar_sportot_uznek_a_dohanymultik_a_kormannyal_valo_szembehelyezkedesbol/

¹⁰⁵ <http://index.hu/gazdasag/magyar/2012/02/27/trafiktorveny/>

¹⁰⁶ The economic daily 'Napi Gazdaság' reported last Thursday's edition that in the latest version of bill which can be read on the European Commission's website, was created on a computer in which 'János Sánta' was registered as user. <http://index.hu/gazdasag/magyar/2012/02/27/trafiktorveny/> and <http://index.hu/gazdasag/magyar/2012/02/27/trafiktorvenylazar/>

¹⁰⁷ See: Tóth, István János – Cserpes, Tünde – Kotek, Péter – Vereckei, András: Kormányzati kudarcok, járadékvadászat és korrupciós kockázatok a magyar villamosenergia-szektorban, in: Szántó, Zoltán – Tóth, István János – Varga, Szabolcs (ed.): A (Kenő)pénz nem boldogít? Gazdaságszociológiai és politikai gazdaságtani elemzések a magyarországi korrupcióról, BCE Szociológia és Társadalompolitika Intézet Korrupciókutató-központ, Budapest, 2012. március, http://unipub.lib.uni-corvinus.hu/890/1/szz_tij_vsz_a_kenopenz_120330.pdf

Permanent chain of modifications

Due to the undesirable effects of the new regulation the government had to modify the Law and other parts of the tobacco market regulation several times ¹⁰⁸.

On July 24th 2012 the government came up with an other bill impacting the tobacco trade with the idea of raising the excise tax for products deemed unhealthy. The minimum tax on tobacco would be increased to 14,650 forints (about 50 Euro) per kilogram from January 1st 2013 and 18,150 forints (about 60 Euro) per kilogram from May 1st. Experts predicted huge growth in the black market's volume and related smuggling. They warned the government of the potential loss of hundreds of billions of value-added tax and excise tax revenues¹⁰⁹. The smallest actors in the tobacco industry would be the biggest losers, and the resulting business failures would lead to thousands of people losing their jobs.

On September 11th 2012 the bill on „*suppressing the smoking of the underaged and the commerce of tobacco products*”¹¹⁰, the content of which was continuously modified until the final vote, was accepted by the parliament. The first concessions for the right to sell tobacco for twenty years were to be issued by December 31th 2012 and the new system would start in July 2013¹¹¹.

The Union of the Workers of Tobacco Industry and Commerce and the National Association of Independent Commercial Workers expressed their concerns about the tobacco trade law and together signed a petition against it¹¹². They underlined the fact that there was not any substantive discussion or negotiation with the representatives of the employees during the legislative process. According to them, the government planned to monopolize the tobacco market from one day to another and created a retail system from which tens of thousand employees were supplanted. If the government's real aim had been to boost the Hungarian economy and to create new workplaces, they would

¹⁰⁸ See Laki op. cit.

¹⁰⁹ http://www.piacprofit.hu/kkv_cegblog/piac/nehez_idok_jonnek_a_trafikokra/

¹¹⁰ http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200134.TV

¹¹¹ http://index.hu/gazdasag/magyar/2012/09/11/elfogadtak_a_trafiktorvenyt/

¹¹² http://hvg.hu/gazdasag/20121214_Rossz_a_trafiktorveny_a_szakszervezetek_s

have figured out a way to fight against unhealthy products without destroying all the existing jobs. They asked for a change in the tobacco trade law to create as many new workplaces as it is necessary to compensate stores excluded from tobacco markets for the lost jobs. A transitory period in which employees could have better adjusted to changing circumstances was also called for. Unfortunately, neither of these suggestions were realized.

In the first iteration of the law only tobacco products were to be sold in the National Tobacco Shops. The first modification of the law the parliament included gambling products like scratch-off tickets.¹¹³ János Lázár, one of the suggesters of the regulation didn't think about it as a potential source of danger for the youth¹¹⁴. The second modification came in February 2014 when Lászlóné Németh, the minister for development, suggested extending the range of products offered to coffee, alcoholic and nonalcoholic beverages and newspapers¹¹⁵. Her amendment was passed following heavy debate. Opposition voices again highlighted that small shops would disproportionately suffer.

The concessions for licenses to operate National Tobacco Shops were carried out in 2013. The applications and tenders weren't open to the public, and names and general information about the applicants were publicized only in the summer of 2014, when Csaba Molnár a member of a small opposition party 'Demokratikus Koalíció', won a suit against the ministry in which he charged them with misuse of public data^{116 117}.

Outcomes

According to the first analysis of tenders for concessions revealed that the former and present employees of Continental S.A., and their relatives throughout Hungary triumphed in the competition¹¹⁸. They will be present in many small settlements and almost in every

¹¹³ <http://nepszava.hu/articles/article.php?id=606472>

¹¹⁴ Obviously the the inclusion of gambling in the restricted 18-and up shop do not consistent with Lazar's original aim.

¹¹⁵ <http://www.parlament.hu/irom39/09863/09863.pdf>

¹¹⁶ <http://444.hu/2014/07/31/a-dk-cakkompakk-megkapja-a-trafikpalyazatok-teljes-anyagat/>

¹¹⁷ http://index.hu/belfold/2014/07/31/az_osszes_trafikpalyazo_nevet_kiadja_az_nfm/

¹¹⁸ http://index.hu/gazdasag/2013/04/26/santaek_letaroltak_az_orszagot/

important town. Thus, the law has served its aims: It created favourable positions for the Hungarian-owned enterprises, and within these the Fidesz-related entrepreneurs.

There were many absurd cases in the results of the concessions. In some cities the winners were definitely geographically concentrated. In Szombathely (a town in the West part of Hungary) four candidates won 40 concessions, in 26 other settlements there were only 49 winners¹¹⁹. In a joint quick-reaction report Corvinus University and Enrawell stated that there were 29 candidates in Hungary who won the maximum number (five) of concessions¹²⁰. In a small Hungarian village 'Szalkszentmárton', a small town with less than 3,000 inhabitants, two National Tobacco Shops opened in the same building, one operated by a man, the other by his wife¹²¹.

Among the winners former tobacconists were not highly represented. Many winners were to open a tobacco shop without any practice in the retail trade.¹²² In this sense the predictions of the unions came true.

Aside from the troubles caused by the National Tobacco Shops, the tobacco trade also suffered from a mandated increase profit margin to a minimum of 10%, or around 130 forint (about 40 Euro).¹²³ A rather optimistic estimate predicted a 15 percent increase black market product volume shortly after the change. The result was a 45 billion forint (about 150 million Euro) revenue shortfall for the state.

Following the suspicious concession process a recording was revealed about the so-called „*trafikmutyi*” (a Hungarian neologism referring to corrupt seeming tobacco concession results) in May 2013. In Szekszárd the mayor István Horváth identified the main point of the applications and the ideal candidate as

„...the main point is that, he/she has to be a committed right-winger.”¹²⁴

¹¹⁹ http://hvg.hu/gazdasag/20130423_Lottosorsolashoz_hasonlit_a_dohanykoncess

¹²⁰ http://hvg.hu/gazdasag/20130423_Lottosorsolashoz_hasonlit_a_dohanykoncess

¹²¹ <http://444.hu/2013/06/30/eros-trafikkoncentracio-szalkszentmartonban/>

¹²² http://index.hu/gazdasag/2013/04/24/atvennem_a_boltot/

¹²³ http://hvg.hu/gazdasag/20130429_Trafiktorveny_itt_az_1000_forintos_cigi

¹²⁴ http://index.hu/gazdasag/2013/05/09/hangfelvetel_bizonyitja_a_trafikmutyit/

Now ex-Fidesz member László Hadházy had previously publically mentioned a list of the applicants, whose identities were discussed in a fraction meeting. He said: „*Practically, we went through this list, we checked if anybody knows any of the names, and about those we knew, we stated our opinions*”¹²⁵. First the mayor denied Hadházy's statement, but from the recording it is clearly audible that they judged the candidates on political grounds. His fellow representatives claimed that Hadházy lied because of a conflict of interest.¹²⁶

On July 1st 2013 the National Tobacco Shops were opened. Although the law's stated main goal was to fight against products harmful to health, with special focus on young people, National Tobacco Shops were opened next to primary schools in two parts of Budapest (Csepel and Óbuda)¹²⁷. One of the shops was also present next to a healthcare facility in Sárvár.¹²⁸

After three months it became obvious that the situation of the National Tobacco Shops wasn't stable. One in three shops was loss-making.¹²⁹ The tobacco market shrunk dramatically, trade became increasingly intransparent and in the first 11 months of 2013 2.6 billion fewer cigarettes were sold legally than in the same period of 2012. The actors of the national tobacco market lost almost one-third of their most profitable segments' products and 2500 tobacco shops were fighting to survive.¹³⁰

Moreover robberies became a weekly occurrence, as the small and defenceless units with their tinted windows seemed easy targets for criminals. The Tobacco Commercial Nonprofit Company sent out a survey to the tobacconists to discuss safety concerns and opinions and how to discuss them. In this survey among the possible answers there was

¹²⁵ http://index.hu/belfold/2013/04/30/egy_fideszes_kepviselo_kiteregette_a_trafikszennyst/

¹²⁶ http://hvg.hu/itthon/20130509_trafikmutyi_Szekszard_fideszes_kepviselok

¹²⁷ <http://444.hu/2013/06/18/trafiksuli/>

¹²⁸ <http://444.hu/2013/07/01/trafik-nyilt-a-tudogondozo-mellett/>

¹²⁹ <http://444.hu/2013/09/19/ebben-az-orzagban-mar-mutyizni-sem-eri-meg/>

¹³⁰ <http://trafik.hu/dohanyipar-es-kiskereskedelem-fustbe-ment-terv/>

one obviously false statement according to which „*it should be communicated that the attacks against tobacco shops aren't above the average*”¹³¹.

So far there have been five concession rounds altogether. The second was declared for places for which there wasn't any winner at the first concession. After the corruption cases of the first round, the number of the applicants was exceedingly low,¹³² and so a third concession was needed. A fourth round was for the places of winners of the first who did not wind up starting their operation.¹³³ The final, fifth round was for 18 towns which still did not have a shop.¹³⁴

At the beginning of 2014 there will still many unanswered questions about the concession process. The government refused to give out the names and data of the candidates and the concession giving processes, because they regarded them as secret information. No further justification was given. A former tobacconist in Dunakeszi, Tamás Keresztes won a suit against the state, highlighting that there were no competent reviewers in his region to analyze the original tender applications.¹³⁵ As previously mentioned, the opposition party Demokratikus Koalíció also won a suit in connection with the concession data, and so it became legally binding that the state make its records on the matter public.¹³⁶

This took place in the summer of 2014. The description of the evaluating processes were simply surreal: only 12 people, including under-secretary assistants, heads of departments and main heads of departments, signed more than 15 thousand applications in just one day.¹³⁷ Even if they had previously investigated these concessions, signing those would have been taken more than one day. The criteria of the given subjective points were also unclear, nobody could figure out why applicants got this or that many

¹³¹ <http://444.hu/2014/01/08/az-allam-szerint-attol-is-biztonsagosabbak-lesznek-a-dohanyboltok-ha-elegszer-elmondjak-hogy-nem-is-raboltak-ki-olyan-sokat/>

¹³² http://www.piacprofit.hu/kkv_cegblog/ujabb-koncesszios-palyazat-a-hoppon-maradt-kistelepulesekre/

¹³³ http://www.piacprofit.hu/kkv_cegblog/kkv-palyazatok/ujra-lehet-trafikra-palyazni-januar-kozepeig/

¹³⁴ http://www.piacprofit.hu/kkv_cegblog/kkv-palyazatok/trafikpalyazat-otodszor-is/

¹³⁵ http://hvg.hu/gazdasag/20140115_Trafikmutyi_a_miniszteriumnak_ki_kell_adn

¹³⁶ <http://444.hu/2014/05/09/jogeros-hogy-nyilvanossagra-kell-hozni-a-trafikpalyazatokat/>

¹³⁷ <http://nol.hu/belfold/szurrealis-palyazatok-es-biralok-1478659>

points. Only the range is known (from 3 to 58) without any broader context or perspective.¹³⁸

Last events

On November 11th 2014 a new bill was presented on concerning the tobacco trade law, specifically about *the integration of the retail trade of tobacco products*. It includes a suggestion about establishing a central tobacco retail supply in every county and that the tobacco shops must order their products from there.¹³⁹ Here too the margin would be fixed, and there wouldn't be any concessions for the right of the operation. Instead the state would evaluate potential candidates with strict conditions (ie they must have been in the tobacco industry for at least 15 years, never have had more than half a million forint (under 2,000 Euro) in debt, and haven't been fined more than 20 million forints (about 65,000 Eur) for any reasons since 2005).¹⁴⁰ Philip Morris and BAT were immediately eliminated as possible applicants but the third important company, Continental were not. The Continental, whose owners, relatives, and staff related to the winning Tobacco Shops close to 10%. Continental owner (János Sánta) has personally good relation with János Lázár¹⁴¹, and his computer was written the original draft of the Tobacco Trade Law¹⁴².

¹³⁸ See <http://nol.hu/gazdasag/levelben-fenyegeti-az-nfm-a-trafikaktakat-kezelok-dk-t-1478529>

¹³⁹ See <http://444.hu/2014/11/14/jon-a-trafiktorveny-2/>

¹⁴⁰ See http://index.hu/gazdasag/2014/11/14/itt_az_ujabb_trafiktorveny/

¹⁴¹ See http://index.hu/gazdasag/2013/04/26/santaek_letaroltak_az_orzagosot/ and <http://index.hu/gazdasag/2013/04/24/santa/>

¹⁴² See http://hvg.hu/itthon/20120227_trafiktorveny_dohanytorveny_continental

4.5. The Case of Hungarian Residence Bonds

Bob Woodward: The story is dry. All we've got are pieces. We can't seem to figure out what the puzzle is supposed to look like. John Mitchell resigns as the head of CREEP, and says that he wants to spend more time with his family. I mean, it sounds like bullshit, we don't exactly believe that...

Deep Throat: No, heh, but it's touching. Forget the myths the media's created about the White House. The truth is, these are not very bright guys, and things got out of hand.

Bob Woodward: Hunt's come in from the cold. Supposedly he's got a lawyer with \$25,000 in a brown paper bag.

Deep Throat: Follow the money.

Bob Woodward: What do you mean? Where?

Deep Throat: Oh, I can't tell you that.

Bob Woodward: But you could tell me that.

Deep Throat: No, I have to do this my way. You tell me what you know, and I'll confirm. I'll keep you in the right direction if I can, but that's all. Just... follow the money.

[Alan J. Pakula: All the President's Men, 1976]

„There is a rule of law, however, only where every power, however large, is subject to the law and limited by it.”

[Roger Scruton]

Introduction

In the context of the contemporary Hungarian legislative environment, the law (Act CCXX of 2012) analyzed in the following case study is interesting from several perspectives. The law's story is noteworthy in each of the following ways:

- 1) It was proposed by a Member of Parliament, rather than a minister supported by a ministry with its policy expertise apparatus;
- 2) The author of the legislation is not known publically;
- 3) No impact assessment was published, nor was a public consultation held;
- 4) Procedurally a Parliamentary committee, rather than a ministry, is responsible for the law;
- 5) The law grants a monopoly to seven private companies;
- 6) Most of the privileged companies by the law were off-shore companies – headquartered in the Cayman Islands, Cyprus or Schaan;
- 7) Rents available to the private entity come at a cost to the Hungarian government and taxpayers.

With these properties in mind, we put forth the residential bond legislation as an example of the violation of the rule of law, and of its connection with rent-seeking, and of possible appearance of political corruption¹⁴³. This case is a clear manifestation of what form, what special means, and what consequences political favoritism and political corruption can have and can operate with in a given country.

Background

Antal Rogán is the parliamentary fraction's leader for the ruling Fidesz party. He serves as chairman of the Parliament's Economic Committee. On Saturday October 27, 2012, he introduced a bill proposing the sale of so-called residence bonds to non-EU citizens. There was no public mention of the proposal ahead of its introduction. Rogán's bill¹⁴⁴ was cosponsored by two members of his fraction. There is circumstantial evidence that they were not involved in the drafting of the law.¹⁴⁵ The government did not conduct any impact assessment, and did not publish anything in connection with the bill.

The proposal outlines the terms of the resident bonds. A non-EU citizen, hence the petitioner, purchases, through an intermediary, a specially issued five year Hungarian government bond with 250 thousand Euro face value. The petitioner receives a Hungarian residence permit, allowing freedom of movement within the EU. Six months later the petitioner would become eligible for permanent residence in Hungary, affording, with the exception of participation in national elections, the petitioner all the rights of Hungarian citizenship.¹⁴⁶ The petitioner's immediate family is also eligible. A personal presence is

¹⁴³ In this case we have to take into consideration the probability of reelection of the corrupt representatives. *"Since representatives are assumed to seek reelection as one of their goals, the preferences of voters influence the behavior of representatives through their impact on the probability of reelection. The willingness of representatives either to tradeoff political support for private monetary gain or to use money to purchase constituents' votes will then interact with the organization of the legislature to generate opportunities for corruption."* See Susan Rose-Ackerman: *Corruption. A study in Political Economy*, Academic Press, New York, 1978, p. 16.

¹⁴⁴ The text is available [here](#).

¹⁴⁵ Their handwritten names are appended to the submitted [proposal](#).

¹⁴⁶ Rogán's statements to the Economics Committee introducing the bill put forth its goal as „facilitating the comings and goings" of wealthy individuals that otherwise face difficulties traveling to the European Union. Additionally, he suggested the proposed law would „strengthen bilateral economic connections by opening a special investment-oriented residency institution, not founded along usual criteria, but rather one in which the primary criteria is seriousness, a seriousness in business, which includes a serious investment

not required for the application, but the petitioner's identity is checked against health and legal blacklists.¹⁴⁷ Citizenship is not mentioned in the final submission, but accompanying documents and responses to questions from journalists by Mihály Babák, one of the two co-sponsors, indicate that granting of citizenship was also considered.¹⁴⁸

Two days later the Rogán-led Economics Committee approved the law. The same day the law was introduced to the Parliament in a general debate. Rogán introduced the law and defended it against criticism from a handful of opposition MPs. One week later, a detailed debate was held. Again Rogán answered questions and defended the bill. Finally on December 11th, the Parliament passed the bill, with every amendment proposed, aside from a few technical items introduced by Rogán himself, rejected. The law's passage became official on December 27th, and came into force on January 3rd.¹⁴⁹

The bill was passed without public consultation, nor was an economic or social impact assessment carried out. Given the bill's content and subject matter, one would expect the Ministry of National Economy to be involved. But the entire process was carried out under the authority of Rogán and his Parliamentary Committee. Critically, the Committee granted itself the sole power to select the financial intermediaries who would be authorized to sell the bonds.

The decision on brokers (intermediaries)

Following the passage of the law, the next step was to select financial intermediaries who would sell the bond to petitioners. As mentioned above, this was the responsibility of the Parliamentary Economic Committee. The initially selected firms, with one exception, were based offshore¹⁵⁰ (for details see Appendix 4). Rogán convinced his committee of the need for this arrangement, saying in a session that it would not be possible to carry out

intentions" [See](#) the Parliamentary Record, October 29, 2012, Monday, from 11:59, discussion in the ground floor's discussion room.

¹⁴⁷ See the [text of the law](#).

¹⁴⁸ See [„Kínaiak árulná a Fidesz a tartózkodás engedélyt”](#) Népszabadság, 2012.10.29.

¹⁴⁹ On the passage see [here](#). For the final text see [here](#).

¹⁵⁰ See details [here](#), and documentation from the Government Debt Management Agency's [report](#).

the program without offshore companies. Specifically, that “it is easy to hide behind many different company formations,” and that “here Hungarian firms are not capable”:

"Let us turn to the next item on the agenda: the law on the entry and residence of third-country nationals. Here the committee has a legal responsibility which, as I understand it, I am afraid I will have to take care of. "(...)

"In the name of the Committee I would like to state the following information. On the one hand, I expect in the case that any country makes a request – and I emphasize, any country can issue such requests under the law- their authorities should receive our assurances and prove that this program is in line with the laws of the country in question. I have already received such an inquiry from the Chinese Embassy." (...)

"These criteria are clear, and the intermediary's founding documentation must be clear that it only engages in this kind of activity. Typical financial companies are not able to insure, according to their founding documents, that they will only deal in this kind of financial instrument, so let us be clear that this story will not fall under any moneylaundering laws." (...)

"On the other hand, I have distributed a system of criteria to all members of the committee. Practically, I have tried to present an overview of potential applications in this area. I would add one thing now that I did not include in the documentation. On account of the fact, that it is easy to hide behind many different company formations, either off-shore or not off-shore, whatever label applies – and since here Hungarian firms are not capable, but rather ones outside Hungary -, let us not forget, that it would be difficult to exclude off-shore companies."¹⁵¹

Rogán's comments prompt several questions. By what procedure and results did the firms suggested as candidates as dealers for these bonds become candidates? The use of the word applicants suggests these firms applied somehow. It is not known what such an application process consisted of, or how firms and countries were evaluated. Was Rogán approached personally, or were official documents submitted? Finally, it is not known how the final list of firms eventually given the right to sell the bonds were selected.

From the statement, we can only suppose that firms who could apply to Rogán were perhaps those with leaders or owners who knew him directly. According to the first firm mentioned by Rogán it received permission from him directly, though there is no publicly available documentation of this.¹⁵²

¹⁵¹ Antal Rogán, [see](#) the Parliamentary Record, March 4th, 2013, from 18:53, discussion in the ground floor's discussion room, Committee Record.

¹⁵² Simultaneously a Singapore-based firm also applied (EURO-ASIA Investment Management Pte Ltd), but they did not meet Rogán's requirements as their application was not in the correct format: „I have other

In Committee, Rogán first put forth the eventually largest and most successful issuer of Residency Bonds, the Cayman Islands-registered Hungarian Special State Debt Fund. The HSSDF was granted a monopoly on residence bonds sold to Chinese citizens. Rogán mentions meeting with two owners of the company and how they had ‘reassured’ him. In Rogán’s words:

"Next we come to the applicant. The applicant has practically satisfied all requirements. From my perspective, the most reassuring thing are the names involved. Here Simon Mu, a reputable Chinese banker and investor is involved. Simon Mu is in charge of the firm, Wanhua, which has one of the most important Chinese interests in Hungary, according to Borsodchem’s leadership. I therefore believe that from Hungary’s perspective he operates with exceptional local knowledge, and he that he is a serious man, who, I had earlier looked into when he was president of the Asian Development Bank, which is the European Bank for Development and Reconstruction’s Asian counterpart, for many years, and again, as I mentioned, has indisputable knowledge about Hungary. Attila Boros, though he now lives in Brussels, is an experience businessman with several Hungarian firms in his history. The other two Chinese businessmen are not known to me personally, but they have impressive resumés, and although I do not know their knowledge of Hungary, they must be recognized as associates of Simon Mu."¹⁵³

The Parliamentary Economic Committee’s Fidesz majority accepted Rogán’s list of recommended companies.¹⁵⁴ Rogán distributed information, including names and more information on their holdings, on one or two leaders of every off-shore company on his list to the committee. This information was not made public.¹⁵⁵ The Committee also decided, that the seven selected companies would, according to the law, not be permitted to compete with one another.¹⁵⁶ Specifically, the law provides for country-specific monopolies to be assigned to specific companies. Issuers are forbidden from selling residency bonds to citizens of countries outside their purview. Violation of this rule would

applications, for example there is one from a Singaporean firm, which, though I think is a very good application, but it does not includes these things, and it is just a very one sided little comparison. I will ask them for the same papers.” (See the Economics Committee Record, 2013.03.04.). Subsequently the Committee passed on the application. Eventually they recieved permission. See [here](#).

¹⁵³ See the Parliamentary Record, March 4th, 2013, from 18:53, discussion in the ground floor’s discussion room, Committee Record.

¹⁵⁴ Of [the fifteen members](#) of the Committee, ten are from Fidesz, two from Jobbik, two from MSzP and one is independent.

¹⁵⁵ See the Parliamentary Record, March 4th, 2013, from 18:53, discussion in the ground floor’s discussion room, Committee Record.

¹⁵⁶ See: 2007. évi II. törvény módosításáról szóló 2014. évi CVIII. törvény és T/8879/7 számú törvényjavaslat (2012).

result in cancelation of the issued bonds. The firms are required to collect and submit personal data of buyers for review by the Ministry of the Interior.

The Hungarian state provides the issuer firms with a substantial though unknown discount on the bonds. It is only known that the firms pay, on average 221 thousand Euros on the 250 thousand Euro facevalue bonds.¹⁵⁷ This corresponds to a 2.5% interest rate on the bonds for the Hungarian state.¹⁵⁸ Next to this, the division of countries into monopoly zones allows the firms to charge large fees. The average customer pays around 74 thousand euros in fees to the companies, according to available data.¹⁵⁹

Consequences

From the passage of the law to early March 2015, 2,356 residence bonds have been issued. Put another way, the companies and the personalities behind them have won 174 million Euros in under two years.¹⁶⁰ The distribution of bonds sold to individuals by nationality is not public, and therefore we cannot know the income of the issuing firms. We do know that in September 2014 80-90% of residency bond sales were made to Chinese citizens.¹⁶¹ Put another way, we can roughly estimate that 80-90% of the revenue resulting from the sale of residence bonds goes to personal acquaintances of Antal Rogán.¹⁶² As for the benefits to the Hungarian economy foreseen by Rogán, a lawyer

¹⁵⁷ The Hungarian NGO [Atlátszó](#) obtained the details of exchanges between the Government Debt Management Agency and the Cayman Islands-based HSSDF.

¹⁵⁸ Regular five year Hungarian state bonds issued in Euros fell below 2.5% in July 2014. They are still below that rate. From this perspective, the Hungarian state could finance itself more cheaply on the open market than by issuing residency bonds – a clear loss for the Hungarian state.

¹⁵⁹ See: http://index.hu/gazdasag/2015/01/29/valaki_boduleteset_kaszal_rogan_otleten/

¹⁶⁰ In 2015 the face value of the bond increased to 300 thousand Euros. The discounted value offered to the firms has not been published by the State Debt Management Agency. Besides this only the number of buyers is known in 2015: 143. The lower number of applicants, proportionally speaking, suggests a lower interest rate, but this is not certain. See [“Még többet kereshetnek Rogán ismerősei”](#), and [“Még mindig jól fog a letelepedési kötvény”](#).

¹⁶¹ During the September 25, 2014 meeting of the Economic Committee it was mentioned that 1102 bonds were sold during this period, leading to 1882 residence permits for Chinese citizens (including family members), the second largest group were the Russian, with 78 permits issued. See the [Parliamentary Record](#).

¹⁶² Rogán's own words imply that the Chinese inspired the idea of the law: „I confess to you honestly that the idea first came to me while serving as President of the National Organization of Chinese-Hungarian Friendship, when over the course of several meetings I came to know the Chinese conventions in this regard with other countries; but it is certainly not only applicable to China, but rather, to be clear, countries

who specializes in helping third country nationals obtain these bonds claims that his clients only care about the EU access they provide.¹⁶³

When legally compelled to answer questions as to why Antal Rogán and the Economic Committee grant licenses without calls for tender and monopolies to select firms, the press office of Fidesz fraction simply referred back to the text of the law.¹⁶⁴ More specifically, to the question of why the choice of firms is left to the discretion of the Committee, the government replied that *“according to the law, the Economic Committee makes the decision. The selection process takes place within the framework of an open procedure, and any firm is free to lodge an application.”*¹⁶⁵

In response to a question on the size of the fees taken by the firms, the government responded that „the market sets the price of these services, and that the state cannot influence this.”¹⁶⁶ On the subject of Rogán’s confidence in the names behind the firm responsible for China, the Fidesz response puts forth that

*“[the firm] is the largest Chinese investor in Hungary, and [as investors] they have brought tens of thousands of jobs to Hungary, and that they have been a reliable partner of the Hungarian government for over fifteen years.”*¹⁶⁷

Addressing the intransparent corporate structures common amongst the issuing firms:

*“every firm must present its owners at application, hence it is false to claim that they are offshore, as generally when one speaks of such firms their ownership is unknown. Moreover, these firms are not taking, but bringing money into the country.”*¹⁶⁸

The Hungarian National Bank’s position on the matter is that according to the law, the bonds and their transactions fall outside the scope of the Bank’s capital market

outside the European Union, and outside the scope of the North Atlantic world. Given our position in Central Europe, I think Hungary should not miss out on this opportunity.” See the [Parliamentary Record](#).

¹⁶³ See [VG.hu](#)

¹⁶⁴ See: [“Bődületeset kaszálnak Rogán ötletén”](#)

¹⁶⁵ The Fidesz response to Index.hu’s e-mail, 2015.01.12.

¹⁶⁶ As above. Note the contradiction of citing market prices in monopolistic setting.

¹⁶⁷ As above

¹⁶⁸ As above

surveillance framework. Indeed, besides the Economic Committee, no Hungarian government body has the ability to track or monitor activity of this program.

Reversed way of hypothesis testing

In summary, the Hungarian residential bond selling program established in 2012 under the guise of fostering investment and building bilateral ties with third countries is highly problematic. It is exceptionally risky, from a good governance perspective, that the individual who wrote the bill is so central to its implementation. It is critical to note, moreover, that the owners of the firm now in an excellent position to extract significant rents (as a consequence of the structure of the law) were personal acquaintances of the individual lawmaker and relatively unknown to the public.

Despite its poor marks according to fundamental principles of the rule of law, transparency, and anti-rent seeking legislation as outlined in this study, it must be noted that the law was properly passed. The regularity, which has accompanied this process, and the goal towards which all the elements of this story lead to created the need to reverse the usual formulation of scientific hypotheses. The focus of the study should not be what made one of the Fidesz - the governing party in the Parliament – representatives propose this bill, formulate it and have it approved, but instead, the hypothesis that political corruption was or could have been part of the procedure should be refuted. In other words the statement that each and every step served the enrichment of those coming up with the concept of the law via the offshore companies selected in the procedure should be refuted. The examination of all these aspects could be the subject of a future research.

5. Conclusions

The years of 2010-14 were a very turbulent period from the point of view of Hungarian legislation. In 2011-13 the Hungarian Parliament adopted between 212 and 226 laws per year. In contrast, between 1990 and 2009 this average was only 125. The empirical analysis of several steps of legislation point out that the accelerating lawmaking process in Hungary since 2010 has had negative effects on the stability of the legal environment, the adequate preparation of laws and the role of public consultation, and hence, the overall quality of legislation.

We can characterize this period by the following properties:

- The formality of public consultation was present during the entire period. However, citizens and stake-holders had a chance to formulate their opinion and to effectively review bills only in a minority of cases.
- The lack of impact assessment studies was endemic. The lack of deep and empirically grounded analyses of potential economic and social effects of a bill characterised almost every case. Additionally, even the elaborated studies suffer from an acute lack of transparency. The impact assessment procedure established by the Hungarian Government (i.e. impact assessment sheets) was entirely ineffective and amounts to a formality.
- We can observe an increasing trend in the volume of the bills submitted by the deputies of ruling parties. There was a high ratio of bills which avoided professional consultations by relevant ministries.
- The data analysis proves that less time is spent on the preparation of bills and on the debate of these bills in the general assembly.

- The data demonstrate a rising share of “junk laws”, i. e. the published laws with considerable faults, which needed to be modified within one year of their publication.

The resulting framework has the following negative consequences in the medium and long term to the rule of law in Hungary:

- These effects cause deterioration of legal certainty and erosion of the rule of law in Hungary.
- The standard procedures and rules now governing the creation and modification of Hungarian legislation imply a rising level of corruption risks in the body of law.
- The effects analysed below imply low and weakening broad-based social influence in the entire legislative procedure

Our analysis aimed at gauging the quality of the preparatory process of bills submitted in Hungary in 2011-2014. We analysed 258 preparatory document packages related to draft bills, from which we retrieved the information content of 248 impact assessment sheets and 27 summaries of public consultations. The preparatory packages are not directly linked to the final, accepted law they are related to, but based on the number of published laws and the number of preparatory packages, a maximum 48% of laws submitted by ministries may have publicly available preparatory packages in 2011-2014. There are not any detailed, well-founded, data-based impact assessment studies in the preparatory document packages, only formal impact assessment sheets for the most part. The number of working days spent on preparing the impact assessment sheets is 2.8 days on average in 2011-2014, which is low by any reasonable standard: this period is not enough to work out detailed, well-founded analyses. The sheets are poor in factual, exact data. Only the budget section includes exact values.

The deadlines for sending in opinions in the public consultations were tight, ranging from 4-8 days on average in 2011-2014, in five cases the deadline and the date of the preparatory package were the same. There are very few summaries of opinions on the

government's website: only 22 document packages include a summary. The tight deadlines may be partly responsible for this.

Regarding the quality of legislation, the aim of the empirical analysis was to highlight some characteristics of the laws published in Hungary focusing on the last two years. The analysis is based on the data available on the webpage of the Hungarian National Assembly and the Office of the Hungarian National Assembly. Our dataset is referring to the period between 2006 and 2014 containing 1547 published laws.

The years between 2011 and 2013 were very turbulent within 2006-2014. The average number of published laws in these years was 217. In contrast, between 1990 and 2009 this average was only 125.

In the eras of Orbán-governments the share of bills submitted by deputies of the ruling parties are extremely high. In the first months of 2010, after the change of government, probably the bureaucracy was not altered, and the new government did not trust in its middle and top management. However this ratio did not decline to its level before the second Orban-government, as it was moving between 19% and 29% since 2011. The consequences may be the following:

- less professionally elaborated bills,
- non-transparent preparation of bills, with disordered influences,
- greater possibility of positive or negative discrimination of business groups,
- rising risk of corruption in connection with legislation and of regulatory capture.

The number and share of published laws modified within one year became extraordinarily high in 2011. Though this number decreased annually to 2013, it remains high in historical terms. The number of amending acts modifying several laws published within the last two years also became excessively high in 2012 and 2013. A marked decrease in 2014 can likely be explained by the elections. These factors may have led to the deterioration of the legal certainty and rising uncertainty among economic actors, particularly in 2011 and

2012, when the “junk legislation” was mostly typical. These effects may last for a long time, distorting legal certainty far into the future.

Till 2010 the legislation became faster. The time elapsed between the introduction and the publication of a bill significantly shortened after 2010. The accelerated legislative process led to restricted possibilities to debate, and to form and explain professional arguments. These effects can be seen in the growing share of “junk” or faulty laws – and also in the rising number of laws published in 2011 and 2012 and their subsequent modifications. The pace of legislation further quickened because of the changes to the rules of legislation in 2014. This compounding phenomenon may lead to faster legislation on the one hand and limited debates – and even reduced publicity of the debates – on the other.

Annex

A1. Prime Ministers in Hungary, 1990-2012

Start date	End date	Prime minister	Party
May 23. 1990	Dec 12. 1993	Antall, József	MDF
Dec 12. 1993	Jul 15. 1994	Boross, Péter	MDF
Jul 15. 1994	Jul 6. 1998	Horn, Gyula	MSZP
Jul 6. 1998	May 27. 2002	Orbán, Viktor	Fidesz
May 27. 2002	Sept 29. 2004	Medgyessy, Péter	MSZP
Sept 29. 2004	Jun 9. 2006	Gyurcsány, Ferenc	MSZP
Jun 9. 2006	Apr 14. 2009	Gyurcsány, Ferenc	MSZP
Apr 14. 2009	May 29. 2010	Bajnai, Gordon	MSZP
May 29. 2010	June 6 2014	Orbán, Viktor	Fidesz
June 6 2014		Orbán, Viktor	Fidesz

Notation: ----- : general elections

A2. Analysis of Legislation 2006-2014

Table A2.1.: Number of published laws per year and government 1990-2014

Year	Prime Minister	Number of published laws
1990	Antall, József	77
1991	Antall, József	93
1992	Antall, József	89
1993	Antall, József – Boross, Péter	116
1994	Boross, Péter	55
1994	Horn, Gyula	50
1995	Horn, Gyula	125
1996	Horn, Gyula	131
1997	Horn, Gyula	159
1998	Horn, Gyula	35
1998	Orbán, Viktor	58
1999	Orbán, Viktor	125
2000	Orbán, Viktor	145
2001	Orbán, Viktor	121
2002	Orbán, Viktor	10
2002	Medgyessy, Péter	58
2003	Medgyessy, Péter	133
2004	Medgyessy, Péter	86
2004	Gyurcsány, Ferenc	54
2005	Gyurcsány, Ferenc	189
2006	Gyurcsány, Ferenc	57
2006	Gyurcsány, Ferenc	78
2007	Gyurcsány, Ferenc	184
2008	Gyurcsány, Ferenc	114
2009	Gyurcsány, Ferenc	22
2009	Bajnai, Gordon	141
2010	Bajnai, Gordon	44
2010	Orbán, Viktor	146
2011	Orbán, Viktor	213
2012	Orbán, Viktor	226
2013	Orbán, Viktor	212
2014	Orbán, Viktor	16
2014	Orbán, Viktor	97

Source: calculations by CRCB

Notation: ----- : general elections

Table A2.2.: Number of published laws under each government, monthly average 1990-2014

Prime Minister	Monthly average of published laws
Antall J. - Boross P.	8,6
Horn Gy.	10,4
Orbán V. (1)	9,8
Medgyessy P.	10,7
Gyurcsány F. (1)	15,0
Gyurcsány F. (2)	11,4
Bajnai G.	14,2
Orbán V. (2)	17,3
Orbán V. (3)	12,1

Source: calculations by CRCB

Table A2.3.: Average number of days elapsed between introduction and publication of a bill, 2006-2014

Year	Average number of days between introduction and publication of a bill
2006/1	52,9
2006/2	42,0
2007	54,1
2008	66,0
2009	87,5
2010/1	70,6
2010/2	30,9
2011	41,8
2012	46,3
2013	40,8
2014/1	48,0
2014/2	54,1

Source: calculations by CRCB

Table A2.4.: Median number of days elapsed between introduction and publication of a bill, 2006-2014

Year / government	Median number of days between introduction and publication of a bill
2006/1	41,5
2006/2	39,0
2007	49,0
2008	48,0
2009	59,0
2010/1	55,0
2010/2	28,5
2011	35,5
2012	34,0
2013	35,0
2014/1	15,5
2014/2	37,0

Source: calculations by CRCB

Table A2.5.: The ratio of published laws by type of submitter per year, 2006-2014

Year	MP		Committee		Government (Ministries)	
	N	%	N	%	N	%
2006/1	4	8%	2	4%	46	89%
2006/2	9	11%	4	5%	68	84%
2007	19	10%	9	5%	156	85%
2008	14	12%	4	4%	96	84%
2009	36	22%	4	3%	123	76%
2010/1	11	27%	2	5%	28	68%
2010/2	75	50%	5	3%	70	47%
2011	59	28%	9	4%	144	68%
2012	66	29%	4	2%	155	69%
2013	54	26%	2	1%	156	74%
2014/1	3	19%	0		13	81%
2014/2	24	25%	3	3%	70	72%

Source: calculations by CRCB

Table A2.6.: Share of bills submitted by deputies of ruling parties, 2006-2014, %

Year	Share of bills submitted by deputies of ruling parties (%)
2006/1	7,7%
2006/2	8,6%
2007	7,6%
2008	10,5%
2009	20,9%
2010/1	26,8%
2010/2	49,3%
2011	27,8%
2012	29,3%
2013	24,5%
2014/1	18,8%
2014/2	24,7%

Source: calculations by CRCB

Table A2.7.: Number of laws modified within one year, 2006-2013

Year	Number of laws modified within one year
2006/2	8
2007	8
2008	9
2009	15
2010/1	7
2010/2	17
2011	56
2012	49
2013	27

Source: calculations by CRCB

A3. One example of impact assessment sheet

HATÁSVIZSGÁLATI LAP			
Iktatószám:	45085-3/2014/JOGI	Dátum:	2014. szeptember. 10
A hatásvizsgálat elkészítésére fordított idő:	1 munkanap	Kapcsolódó hatásvizsgálati lapok:	-
Hatásvizsgálatba bevont személyek, szervezetek:	-	Vizsgált időtáv:	2015-2018.

Előterjesztés címe:	Előterjesztés az egyes egészségügyi és egészségbiztosítási tárgyú törvények módosításáról	Előterjesztő:	EMMI
Intézkedés megnevezése:	A létfontosságú rendszerek és létesítmények azonosításáról, kijelöléséről és védelméről szóló 2012. évi CLXVI. törvény módosítása		
Előterjesztés szükségessége:	A gyógyszer-nagykereskedelmi tevékenység hazánk egészségügyi biztonsága, illetve a lakosság ellátása szempontjából kiemelten fontos, ezért az ellátás biztonságának szempontjából fontos azonosítani valamennyi olyan szereplőt, amelyek tevékenységének kiesése komoly fennakadásokkal jár.		
Utolsó módosítás dátuma:	-	Következő módosítás várható dátuma:	-
Előzmények:	-		

Végrehajtás feltételei		
Az intézkedés alkalmazásához szükséges személyi, szervezeti, tárgyi és pénzügyi feltételek adottak?	igen	A végrehajtás feltételei adottak, a tevékenység besorolása nem jár többletfeladattal.

I. VERSENYKÉPESSÉG	
1. Miként járul hozzá az intézkedés az ország versenyképességének javításához?	Nem változik érdemben

Kérjük mutassa be az érintett csoportok társadalmi helyzetére gyakorolt hatásokat!			
2. Az intézkedés hozzájárul a foglalkoztatás növeléséhez?	nem	Hány fővel?	
3. Megtörtént-e az intézkedés adminisztratív terhekre gyakorolt hatásainak vizsgálata?	igen		
Piaci szereplők esetén			
	<input type="checkbox"/> Növekednek	0 Ft	mértékben
	<input type="checkbox"/> Csökkennek	0 Ft	mértékben
Közigazgatási szereplők esetén		Lakossági és egyéb nem piaci szereplők esetén	
	<input type="checkbox"/> Növekednek		<input type="checkbox"/> Növekednek
	<input type="checkbox"/> Csökkennek		<input type="checkbox"/> Csökkennek
II. TÁRSADALMI FELZÁRKÓZÁS			
1. Érintett csoportok			
	Csoport megnevezése	Csoport mérete (fő)	Előny - Hátrány
1.	Gyógyszernagykereskedők	300	<input checked="" type="checkbox"/> <input type="checkbox"/>
2.	-	0	<input type="checkbox"/> <input type="checkbox"/>
3.	-	0	<input type="checkbox"/> <input type="checkbox"/>
2. Hatások összefoglalója			
Kérjük mutassa be az érintett csoport/ok társadalmi helyzetére gyakorolt hatásokat! (max. 8 mondat)			

III. STABIL KÖLTSÉGVETÉS			
Költségvetési hatások			
	A vizsgált időszakban	Az aktuális évben	További négy évben

Az intézkedés költségvetési egyenlegrontó hatása	0 Ft	0 Ft	0 Ft
Az intézkedés egyenlegrontó hatásának fedezete a költségvetésben	0 Ft	0 Ft	0 Ft
Az intézkedés költségvetési egyenlegjavító hatása	0 Ft	0 Ft	0 Ft
Az intézkedés egyenlegjavító hatásának figyelembevétele a költségvetésben	0 Ft	0 Ft	
Teljes hatás	0 Ft	0 Ft	0 Ft
Teljes hatás az elfogadott költségvetéshez képest	0 Ft	0 Ft	0 Ft

IV. FENNTARTHATÓ FEJLŐDÉS	
Vannak-e az intézkedésben foglaltaknak jelentősnek ítélt környezeti vagy természeti hatásai?	nem
Hatások összefoglalója	
Közzététel: az intézkedés környezeti és természeti hatásai	

V. EGYÉB HATÁSOK	
Vannak-e az intézkedésben foglaltaknak jelentősnek ítélt egészséghatásai?	igen
A gyógyszernagykereskedelmi tevékenység révén az egészségügyi biztonság szintje emelkedik.	
Vannak-e az intézkedésnek további hatásai?	nem
Közzététel: az intézkedés további hatásainak rövid leírása	

Jóváhagyta:	Dr. Beneda Attila	
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A4. The list of privileged companies by the Hungarian Residence Bonds' Law

	Date Licensed	Firm	Countries/Citizenships Covered	Geographical Areas
1	2013.04.09.	Hungary State Special Debt Fund (89 Nexus Way, Camana Bay, Grand Cayman KY1-9007)	China, Vietnam	China, Vietnam, Hungary
2	2013.05.27.	Discus Holdings Ltd (236, St. Paul Street, Valletta, VLT1215, Málta)	South Africa, Indonesia, Kenya, Nigeria	South Africa, Indonesia, Kenya, Nigeria, Hungary
			USA, Kazakhstan, Thailand	USA, Kazakhstan, Thailand, Hungary
			Azerbaijan, Turkey	Azerbaijan, Turkey, Austria, Hungary
3	2013.06.20.	Innozone Holdings Limited (195 Arch. Makariou III Avenue, Cy-3030 Limassol, Cyprus)	India	Cyprus, India, Hungary
			Persons registered in Cyprus	Hungary
4	2013.08.29.	Arton Capital Hungary Pénzügyi Tanácsadó Kft. (1068 Budapest, Székely Mihály u. 8.)	United Arab Emirates	United Arab Emirates, Hungary
			Afghanistan, Pakistan	Afghanistan, Pakistan, Malta, Hungary
			Persons registered in Afghanistan, Pakistan	Magyarország

5	2013.08.23.	VolDan Investments Limited (Schaan)	Russia, Ukraine, Turkmenistan, Georgia, Belarus, Uzbekistan, Montenegro, Serbia, Bosnia and Hercegovina	Russia, Ukraine, Turkmenistan, Georgia, Belarus, Uzbekistan, Montenegro, Serbia, Bosnia and Hercegovina, Poland, Slovakia, Czech Republic, Romania, Hungary
6	2013.08.22.	EURO-ASIA Investment Management Pte Ltd (28C Stanley Street Singapore)	Singapore	Singapore, Hungary
7	2013.07.25.	S&Z program Limited (Schaan) – [the license was withdrawn later by Economic Committee of Hungarian Parliament]	Egypt, Morocco, Tunisia, Algeria, Yemen, Oman, Iran, Qatar, Kuwait, Lebanon, Iraq, Saudi Arabia, Syria, Lybia, Jordan, Bahrain	Egypt, Morocco, Tunisia, Algeria, Yemen, Oman, Iran, Qatar, Kuwait, Lebanon, Iraq, Saudi Arabia, Syria, Lybia, Jordan, Bahrain, UK, Switzerland, Hungary

Source: National Debt Management Agency: <http://www.akk.hu/object.b61e5dc4-a342-4a5e-b69a-0b6239feba2c.ivy>