



# The significance of freedom of information tools in fighting corruption

Ligeti Miklós

*Transparency International Hungary*

*Miklos.Ligeti@transparency.hu*

# overview

democratic checks & balances

shrinking civic space

accessibility of public data & hindrances of transparency

transparency in practice: our FOI-litigations

# state of play of checks & balances

# Hungary: an illiberal state beyond rule of law (?)

democratic checks & balances disrupted

almost no state player to keep gov't under control

tailor made regulations

preferential legislations, discretionary enforcement

„worrying signs of an instrumental attitude towards the constitution” → 19 constitutional amendments since 2010 (1 rejected but reintroduced & adopted)

party state capture → gov't and oligarchs form a symbiotic power conglomerate

# disruption of democratic checks & balances

questionable appointments = „court packing / packing of institutions”

- Constitutional Court
- ombudspersons
- freedom of information institution
- judicial administration / Supreme Court (Curia)
- prosecution service
- Court of Auditors (State Audit Office)
- election administration
- media board

restriction of jurisdiction

- Constitutional Court
- law courts

expansion of jurisdiction

- prosecution service
- judicial administration

# shrinking civil society space

gov't has disliked critical NGOs ever since

massive anti-NGO (rhetorical) campaign starts in 2013

2014: gov't audits Norwegian civil funding, audit stands on shaky legal grounds

gov't: clandestine service information shows NGOs behind (alleged) invasion of irregular migrants

gov't legislation1: NGOs with foreign funding in excess of HUF 7.2 Million have to register → Foreign Funded Organisation ('FFO') → foreign = treasonous

gov't legislation2: criminal sanctions applicable to the promotion of illegal migration

gov't legislation3: punitive surtax levied on organisations that promote migration

# accessibility of public information

# why is transparency important?

transparency is rewarding and pays off

denial of wrongdoing more difficult

(but does not stop corruption)

makes power more careful

more accountable public expenditure



# why is transparency bad?



gov't: a hindrance in the way of efficiency

SOEs' business secrets

servicing data requests consumes time & money

CSOs / journalists obstruct gov't

# accessibility of public data – the theory

3 milestones since 1990

→ 1992: 1st FOI act / 1995: FOI ombudsman

→ 2002/2003: “glass-pocket” law limits business secrecy

→ 2011/2012: Fundamental Law / public finance clause,  
offshore ban

# disruption of the FOI institution I.

**the Fidesz gov't undermines institutions to guarantee access to public information**

**2012**

→ FOI ombudsman replaced by a gov't authority

**2013**

→ statutory limitations to hinder large scale data requests

→ limitation of business secrecy removed from Civil Code

# disruption of the FOI institution II.

**the Fidesz gov't undermines institutions to guarantee access to public information**

## **2015**

- tax exempt sport donations (business secret)
- Paks II. investment full secrecy
- costs of data request charged on requestor
- copyright regulations

## **2016**

- expansion of business secrecy to SOEs
- Central Bank's foundations exempted (aborted attempt)

# TI-HU's FOI litigations

approx. 3 dozen court cases (“litigation streams”)

strategic relevance

large sums of public money at stake

high level abuse

everyday corruption (easy to understand locally)

# systemic & legalised corruption

# Hungarian Central Bank's foundations

Hungary's Central Bank establishes 6 private foundations & endows them with public funds worth approx. 267 billion HUF (\$960 million) - almost one percent of GDP

extensive conflicts of interest on foundations' boards

favouritism in foundations' investments

possible infringement of EU monetary financing rules (foundations buy gov't bonds worth 197 billion HUF)

foundations do not issue public tenders for purchases → no public procurements

parliament adopts law to retroactively prevent the foundations' expenses and operations from becoming public → CC annulled this law

TI-H files a criminal complaint against the Central Bank → PG's Office declines to investigate suspected wrongdoings (no written explanation) → PG's wife is Central Bank's HR director & sits on the board of more foundations

# an invitation to rich migrants: Hungary's golden visa business

300.000 EUR buys access to EU's Schengen Zone

“wannabe” Schengen Visa holder buys a Gov't residency bond

no “Gov't → Investor” transaction

bonds are brokered by intermediary companies

bond remains with intermediary company

investor gets intermediary company's paper (“proof of payment”)

intermediary companies licensed by Parliament Economic Committee → unusual process, no transparency

intermediary companies are off-shores (one exception) → proprietary background unclear



# intermediary companies' enrichment

residency bonds are zero coupon bonds → nominal:  
300.000 EUR → discount price: 271.000 EUR

## intermediary companies' lucre:

EUR 29.000 / bond → yields & interests payed by Gov't, in advance

6,621 bond packages (as of June 30, 2017)

$6,621 \times 29.000 = \text{EUR } 192 \text{ Million}$  → comes from Hungarian public money

## economic disadvantages

gov't pays EUR 178 million to get EUR 1.666 Billion → standard gov't bonds would have been EUR 66,5 million cheaper

tao (not the absolute principle underlying the universe, but corruption)

a form of tax exempt sports donations

corporations divert a portion of their CIT to a sports associations / sports clubs

2011-2017: 441 Billion HUF diverted from state treasury

2018: 80 Billion HUF anticipated

Felcsút (hometown of PM Orban) → HUF 14 Billion (2011-2017), HUF 9 Billion (2018)

average soccer club to receive HUF 26 million in a year

donors and donations by corporations a tax secret

Supreme Court ruling: tax exempt (sports) donations are public funds, details to be revealed

# conclusions: is this the end of democracy in Hungary?

disruption of democratic checks & balances

instrumental attitude towards legislations

oligarchs and elites form a political clique / camarilla

critical civil society groups under pressure

FOI tools serve to monitor the gov't & public spending

transparency shed light on wrongdoing, but does not prevent it



Hungary: a managed / vulnerable democracy with signs of state capitalism



thank you for your attention

**Ligeti Miklós**

*Transparency International Hungary*

*Miklos.Ligeti@transparency.hu*