

# The draft Hungarian Partnership Agreement seems to contradict EU rules

With contributions from other civil society organisations, Clean Air Action Group has prepared two assessments<sup>1</sup> of the draft Hungarian Partnership Agreement on EU funds (PA) for the financial period 2021-2027. These assessments came to the conclusion that the draft PA contradicts the provisions of the relevant EU legislation. Below, we provide some more information underpinning our conclusion.

## A. Financing of a huge organised crime network with EU funds

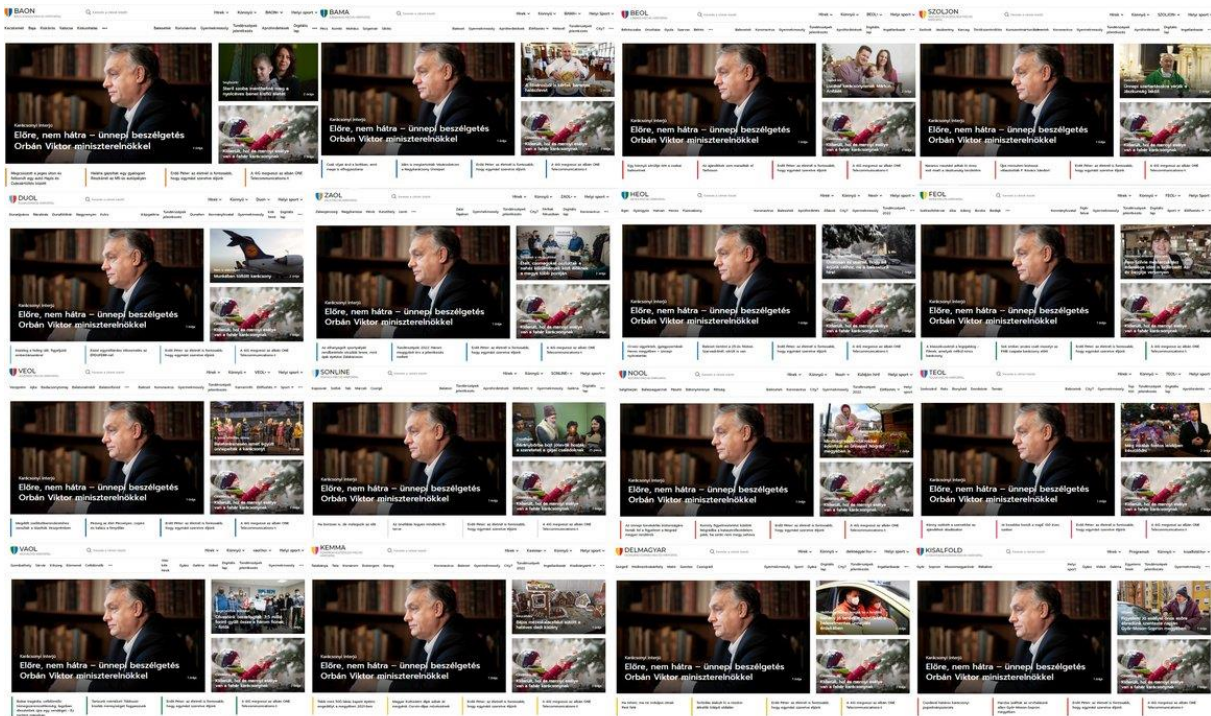
During the last 10 years, the Hungarian government has transformed the whole legislative and institutional system in a way that makes it much easier for certain groups close to the government to steal and misuse EU money. As the executive director of TI Hungary, József Péter Martin stated at a Conference on EU Funds in December 2017, “The rule of law and exposure to corruption risks go hand in hand. In recent years, Hungary has seen a deterioration of rule of law and democratic norms, which is in close connection to corruption becoming systemic in the country. Hungary is one of the biggest beneficiaries of EU funds, with around EUR 25 billion coming to the country in the current budget cycle. These funds are often distributed in a partial manner, most projects are overpriced, and the funds are frequently wasted on unjustified objective.”<sup>2</sup>

### 1. Some evidence of the functioning of the organised crime network and the use of EU funds by this network

There is ample literature on the organised crime network that Viktor Orbán, Prime Minister and President of Fidesz and his associates have created and have run for years and on the ways this network has been systematically stealing EU money.<sup>3</sup> Here we mention only a few striking examples.

Lőrinc Mészáros is a gas-fitter and he was (between 2011 and 2018) mayor of the small village of Felcsút where Viktor Orbán grew up. After Orbán came to power in 2010, the minor company of Mészáros and his wife suddenly started to get enormous orders from the government, almost exclusively funded with EU money. By now Mészáros is one of the richest persons in Hungary.

In 2016, the most-read political daily newspaper in Hungary was bought and closed by Lőrinc Mészáros. This move came just after the newspaper published investigative articles about the corruption affairs of close associates of Viktor Orbán. Lőrinc Mészáros also bought the overwhelming majority of the regional newspapers and many other media which now echo only government propaganda. This practically means that a dominant, centrally commanded media behemoth has been created with the help of EU money, while eliminating a substantial part of the independent media.



The website of the formerly independent regional newspapers on 24 December 2021, each of them displaying the same, centrally ordered lead article in which Orbán promotes Fidesz's campaign, while other relevant political parties do not get any surface in these media.

(Source: <https://444.hu/2021/12/24/orban-kloninterjujaval-koszontik-az-unnepet-a-megyei-lapok>).

István Tiborcz is the son-in-law of Viktor Orbán. According to EU's anti-fraud agency, OLAF, Tiborcz is suspected of "excessive budgetary fraud ... and other crimes" related to the use of EU funds. However, the Hungarian Chief Prosecutor declared that he found no evidence of criminal activities of Tiborcz. In 2009, Tiborcz had only a small company with annual revenue of around 29,000 euros. After Viktor Orbán became prime minister in 2010, its revenues surged, and already in 2011, they reached nearly 10 million euros. Since then, Tiborcz has become one of the richest persons in Hungary – overwhelmingly from public orders, partly funded with EU money.

A company owned by Prime Minister Viktor Orbán's father, Győző Orbán was awarded contracts financed with huge amounts of EU money – despite Orbán's claim that his family stays away from state tenders.

Orbán's father, his son-in-law, and Lőrinc Mészáros received a combined 100 billion HUF (more than 300 EUR) million in dividends in 2018 alone – overwhelmingly from public procurement businesses financed to a great extent with EU money.<sup>4</sup> (Just for comparison: in the same year, the government spent 248 million HUF on the country's higher education.<sup>5</sup>) The investments thus financed have often been grossly overpriced, the public procurement repeatedly took place with one bidder, and quite frequently it has been dubious whether these investments should have been supported with public money. The enrichment of Orbán's family and cronies has continued this way unabated ever since – to a large extent with EU money.

In July 2019, the Hungarian Parliament adopted a new law according to which the hitherto independent research institutes of the Hungarian Academy of Sciences were removed from the Academy and placed under a newly created organisation.<sup>6</sup> The leadership of this new organisation consists mainly of members appointed by the government. As its president a friend and propagandist of Viktor Orbán, Miklós Maróth was appointed.<sup>7</sup> Maróth openly declared that

the strategy and direction of the research of the research institutes will be determined by Viktor Orbán. It is perfectly well-known what this means: those institutes and researchers which have expressed any criticism of the government's policy will be silenced, and the EU money for R&D will be (re)directed to those dear to Orbán's heart.<sup>8</sup>

Recently, the Hungarian government has been moving an enormous amount of public money and high value properties (including most Hungarian universities, e.g. all the medical universities and clinics) to private foundations controlled by persons close to Viktor Orbán, also opening a door to get hold of EU funds.<sup>9</sup>

The Chief Prosecutor of Hungary, Péter Polt, has repeatedly directed criminal investigations in a way that is convenient for the governing party and also adjusted the instructional structure of his office accordingly.<sup>10</sup> The new president of the Supreme Court was elected in scandalous circumstances. Both he and the newly appointed vice-president of the Supreme Court are reasonably suspected of having committed grave crimes.<sup>11</sup>

The Hungarian government misuses the fact that the Commission activated the general escape clause: it has substantially increased public debt (from 66% of the GDP in 2019 to 81% by 2021) but has used the money accrued this way mostly to enhance the national election campaign of Fidesz (just as it did with EU funding during the previous national elections<sup>12</sup>) and to finance the relatives and friends of prime minister Viktor Orbán.<sup>13</sup>

Many new laws and decrees have been approved without any stakeholder consultation, often within a very short timeframe, which serve only a certain business group and help to eliminate potential competitors. One more example of such abuse of law for misusing public funds (including EU funds) is the classification of many investments as "priority investments".<sup>14</sup>

## **2. EU funding used to dismantle democracy**

The current system of EU funding has substantially contributed to the dismantling of democracy in Hungary.<sup>15</sup> Financing this process contradicts the provisions of the Treaty on European Union (TEU).<sup>16</sup>

## **3. EU funding used for harmful market distortion**

EU funding has substantially contributed to harmful market distortion, providing unjustified competitive advantages to certain businesses while disadvantaging others. Thus, many companies make an enormous effort to receive as much EU money as possible in order to gain a competitive advantage, instead of improving their products or services.<sup>17</sup>

Some of the biggest Hungarian companies (which got especially big during the government of Viktor Orbán) almost completely rely on public money (EU money to a large extent). These companies are uncompetitive in the international market as was demonstrated in a study<sup>18</sup> by István János Tóth, Director of the Corruption Research Institute Budapest. Here I only summarize two of the study's main conclusions. First, almost all the (huge) profits of these companies are taken out by their owners as dividends while companies operating under real market conditions reinvest most of their profits into further developing their business. Second, these companies operate only in Hungary while it is generally characteristic of big companies that they strive to get hold of foreign markets, too.

Moreover, it has become an everyday practice that profitable Hungarian companies are overtaken by persons close to Fidesz in an illegal or semi-legal way. Various methods of

coercion have been used to achieve such a result.<sup>19</sup> In quite a number of cases, the taking over of other companies and banks seems to be legal, however, the acquisition has been made possible by previous illegal or semi-legal enrichment. Such processes of acquisition have even accelerated recently.<sup>20</sup> These processes also mean that a large part of EU funding has been landing at companies acquired by questionable means.

Financing harmful market distortion contradicts the principle of market economy enshrined in the TEU<sup>21</sup> (“3. *The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy...*”), and the provisions of the Common Provisions Regulation (CPR, Article 5(1): „*The ERDF, the ESF+, the Cohesion Fund and the EMFAF shall support the following policy objectives: (a) a more competitive and smarter Europe by promoting innovative and smart economic transformation...*”)<sup>22</sup>.

### 3. EU funding used for financing environmental pollution

The draft of the Environmental and Energy Efficiency Operational Programme of Hungary for the financial period 2021-2027 (KEHOP Plusz) stated the following: “*According to the Third Progress Report of the National Framework Strategy for Sustainable Development, the conservation status of more than 80% of the habitats was unfavourable (60% in 2016). The health of our forests has also deteriorated, with approximately 50% of the country’s forested area being severely vulnerable. The amount of drinking water produced increased by 9% by 2017, which is related to the 2014 minimum, which may be due to the water demand of the growing production and service activities. Compared to 2015, in 2017, 12% more fertilizers were used per hectare. The economic growth of recent years has been accompanied by increasing material use. Although there has been an increase in solar energy use, the increase in final energy consumption is greater than the use of renewable energy. Four-fifths of renewables are agricultural, and two-thirds are power plant and household firewood. GHG emissions increased by 13% between 2013 and 2018, with air pollutants stagnating or increasing.*”<sup>23</sup>

While we fully agree with the above assessment, we would like to call attention to the fact that EU funding has greatly contributed to the deterioration of the environment in Hungary.<sup>24</sup> Funding environmental destruction contradicts the provisions of the TEU (Article 3 (3). “*The Union ... shall work for the sustainable development of Europe based on ...a high level of protection and improvement of the quality of the environment.*”), the CPR (Article 5 (1): *The ERDF, the ESF+, the Cohesion Fund and the EMFAF shall support the following policy objectives: ... (b) a greener, low-carbon transitioning towards a net zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate change mitigation and adaptation, risk prevention and management, and sustainable urban mobility...*”), and many other EU legislation relating to the environment and climate.

### 4. EU funding supporting political discrimination

EU funding has been supporting political discrimination. In Hungary, political discrimination exercised by the government has become widespread since 2010; one can read about such cases almost every day in the remaining independent media. There are many facets of political discrimination in Hungary.<sup>25</sup> One of these is the regular smear campaigns directed against those who criticise the government’s policies.<sup>26</sup> Political discrimination is prohibited by EU law and

international conventions to which Hungary is a party.<sup>27</sup> This situation also has a chilling effect on all those who would speak up about the misuse of EU money.

### C. Warnings directed towards the Commission

The European Commission has been warned many times by various stakeholders about the widespread systemic corruption and other malfeasances affecting EU funding in Hungary, and it was also brought to the attention of the Commission that these actions are committed and/or made possible by the Hungarian government. Here we mention just a few examples of such warnings.

Commission staff had quite a number of meetings with persons and organisations in Hungary researching and disclosing corruption, e.g., with representatives of Transparency International Hungary, Corruption Research Center Budapest, and atlatzo.hu (foundation of investigative journalists) who gave detailed information about the topic. Transparency International EU Office and four other Brussels-based European NGOs already in January 2015 asked the Commission in a common letter<sup>28</sup> to take serious measures to protect the EU's financial interests in Hungary. In November 2017, Co-founder and former Chairman of G20, former Minister of Finance of Germany Hans Eichel and three former European Commissioners, Pascal Lamy, Franz Fischler, and Yannis Paleokrassas asked the Commission to *“temporarily suspend payment of all EU funding to Hungary”* and restore funding *“as soon as basic democratic freedoms are reinstated and corruption counter-acted.”*<sup>29</sup>

The European Parliament has adopted a number of resolutions expressing serious concern about the deterioration of the rule of law, democracy and fundamental rights in Hungary; the one adopted in May 2017 called on the Commission to *“strictly monitor the use of EU funds by the Hungarian Government”*<sup>30</sup>. In its resolution adopted in September 2019<sup>31</sup>, the EP again expressed serious concerns about the use of EU money in Hungary, and in its resolution adopted in June 2021, the EP called on the Commission *“to react swiftly to the ongoing severe violations of the principles of the rule of law in some Member States, which are causing a serious danger in relation to the fair, legal and impartial distribution of EU funds”*. In April 2018, the Committee on Budgetary Control of the European Parliament adopted an opinion on the situation in Hungary, which describes in quite a detail the systemic corruption in Hungary, and states, among others, the following: *“the current level of corruption, and the lack of transparency and accountability of public finances and the ineligible expenditure or overpricing of the financed projects, affects Union funds in Hungary”*<sup>32</sup>. The ad-hoc delegation of the European Parliament to Budapest in September-October 2021 arrived to the following conclusion: *“Widespread corruption seems to have led to a parallel state, making it almost impossible to address in the absence of an independent judicial system.”*<sup>33</sup> In February 2022, the European Parliament's Budgetary Control Committee adopted a draft resolution asking to protect EU funds against oligarchs. The related press release of the Committee states that *“in Hungary, for example, Viktor Orbán according to reports has been ‘centralising and redistributing wealth to his inner circle through agriculture subsidies’.”*<sup>34</sup>

The Commission's own documents also prove that the Commission should have taken serious action to stop the misuse and criminal use of EU money in Hungary. Among others, the Commission has, in its Country-Specific Recommendations, already since 2013 urged each year the Hungarian government to take effective measures against corruption. For example, in the 2018 Country-Specific Recommendations it stated the following: *“According to several indicators, Hungary's exposure to corruption appears to have increased over the past years and the risks of corruption could negatively affect the country's growth potential.”*<sup>35</sup> The most

recent (2020) Country-Specific Recommendation reiterated these misgivings: *“Corruption, access to public information and media freedom caused concerns even before the crisis. These areas are even more exposed to further deterioration in the state of danger as control mechanisms have become weaker. Investigation and prosecution appears less effective in Hungary than in other Member States. Determined systematic action to prosecute high-level corruption is lacking. Accountability for decisions to close investigations remains a matter of concern as there are no effective remedies against decisions of the prosecution service not to prosecute alleged criminal activity. Restrictions on access to information continue to hinder the fight against corruption. Dissuasive practices for accessing public information can deter citizens and non-governmental organisations from exercising their constitutional rights.”*<sup>36</sup> Furthermore, the Commission’s letter to the Hungarian government in November 2021 also admitted that the Commission is fully aware of the systemic large-scale illegal use of EU money in Hungary: *“Risks related to cronyism, favouritism and nepotism in high-level public administration or those arising from the interface between businesses and political actors remain unaddressed” ... The identified deficiencies and weaknesses may... present a serious risk that the sound financial management of the Union budget or the protection of the Union financial interests will continue to be affected in the future*<sup>37</sup>.

The Commission has also made quite a number of concrete recommendations to the Hungarian government to corruption in Hungary: for example, in its 2020 Country Report<sup>38</sup> (in which the word “corruption” is mentioned 40 times), and its 2021 Rule of Law Report on Hungary.<sup>39</sup> However, the Commission has taken no steps in essence to enforce its own recommendations.

Furthermore, the Commission has received the study of Transparency International Hungary *Javaslatok a korrupció visszaszorítására Magyarországon*<sup>40</sup> (Proposals to reduce corruption in Hungary) containing very concrete proposals which, if implemented, would substantially diminish corruption in Hungary. The same is true for the recommendations by GRECO<sup>41</sup> (Group of States against Corruption of the Council of Europe).

Environmental civil society organisations have also informed the Commission several times about the fundamental problems of EU funding, including the widespread misuse of EU money in Hungary (and other member states) and have made many concrete proposals to remedy the situation.<sup>42</sup> Unfortunately, all this fell on deaf ears.

The Commission has also been informed by various stakeholders that there is ample legal ground for the suspension of EU funding to Hungary.<sup>43</sup> Just recently, Members of the European Parliament presented a legal opinion which confirms this.<sup>44</sup>

In spite of all the evidence, the Commission has continued to finance the Hungarian government unabated. For example, in July-August 2021 it transferred about 1.1 billion euros<sup>45</sup>, and in October-November 2021 nearly 1 billion euros.<sup>46</sup>

The Commission must accept the Hungarian Partnership Agreement only if no doubts remain that it fully complies with the relevant EU legislation.

Budapest, 21 February 2022

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<sup>1</sup> Opinion on Hungary’s draft Partnership Agreement concerning compliance with the horizontal enabling conditions,  
[https://www.levego.hu/sites/default/files/Partnership\\_Agreement\\_Hungary\\_horizontal\\_conditions\\_opinion\\_CA\\_AG\\_Oct2021.pdf](https://www.levego.hu/sites/default/files/Partnership_Agreement_Hungary_horizontal_conditions_opinion_CA_AG_Oct2021.pdf)

Comments on the draft Hungarian Partnership Agreement on EU Funds from an environmental perspective.  
[https://www.levego.hu/sites/default/files/Partnership\\_Agreement\\_hun\\_comments\\_211216.pdf](https://www.levego.hu/sites/default/files/Partnership_Agreement_hun_comments_211216.pdf)

<sup>2</sup> Conference on EU Funds on the Occasion of the International Anti-corruption Day. Budapest, 07 December 2017, <https://transparency.hu/en/news/konferencia-az-eu-s-penzekrol-a-korrupcioellenes-vilagnap-alkalmaval/>

<sup>3</sup> Probably **the best websites on the topic with many examples proving that corruption related also to EU money is systemic and it is organised and supported by the Hungarian government and leaders of Fidesz** are the following:

- <https://korrupcioinfo.hu/>
- <https://www.direkt36.hu/>
- <https://atlatszoz.hu/>

There is also **ample other literature on the topic**, see, for example:

How do European Union funds end up in the hands of the Orbán family? Hungarian Spectrum, 20.12.2014, <https://hungarianspectrum.wordpress.com/2014/12/20/how-do-european-union-funds-end-up-in-the-hands-of-the-orban-family/>

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Post-Communist Mafia State – The Case of Hungary, by Bálint Magyar, CEU Press, 2016, [https://books.google.hu/books/about/Post\\_communist\\_Mafia\\_State.html?id=JWESDQAAQBAJ&printsec=frontcover&source=kp\\_read\\_button&redir\\_esc=y#v=onepage&q&f=false](https://books.google.hu/books/about/Post_communist_Mafia_State.html?id=JWESDQAAQBAJ&printsec=frontcover&source=kp_read_button&redir_esc=y#v=onepage&q&f=false)

Twenty-Five Sides of a Post-Communist Mafia State, edited by Balint Magyar, Julia Vasarhelyi, CEU Press, 2017, [https://books.google.hu/books/about/Twenty\\_five\\_Sides\\_of\\_a\\_Post\\_communist\\_Ma.html?id=8wnHDgAAQBAJ&printsec=frontcover&source=kp\\_read\\_button&redir\\_esc=y#v=onepage&q&f=false](https://books.google.hu/books/about/Twenty_five_Sides_of_a_Post_communist_Ma.html?id=8wnHDgAAQBAJ&printsec=frontcover&source=kp_read_button&redir_esc=y#v=onepage&q&f=false)

“Vladimir Putin has been named the 2014 Person of the Year by the Organized Crime and Corruption Reporting Project (OCCRP), an award given annually to the person who does the most to enable and promote organized criminal activity. ... Runners up to Putin this year were Hungarian Prime Minister Viktor Orbán and Montenegrin Prime Minister Milo Đukanović.” OCCRP, January 2015, <https://www.occrp.org/personoftheyear/2014/>

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<sup>19</sup> A fülkeforradalom felfalja sajátjait: bevált receptek alapján viszik Fidesz-közeli cégeit is – Fidesz-barát vállalkozások kezdenek még nagyobb kormányközeli üzletemberek felvásárlásának tárgyává válni. Noha a kleptokrácia működése látens, elterjedése olyan széles körű, hogy létezését már a nyilvánosság előtt is tényként kezelik. („*The revolution in the voting booth is devouring its own: they are taking over the companies of Fidesz supporters – Fidesz-friendly businesses are beginning to be taken over by even bigger pro-government businessmen. Although the operation of kleptocracy is latent, it is so widespread that its existence is already being treated as a fact in the public eye*”), HVG360, 25.11.2021, [https://hvg.hu/360/20211125\\_fulkeforradalom\\_Fidesz\\_uzlet\\_felvasarlas\\_kleptokracia\\_Vitezy\\_Tamas\\_Meszaros\\_Lorinc\\_Garancsi\\_Istvan\\_Orban\\_Viktor](https://hvg.hu/360/20211125_fulkeforradalom_Fidesz_uzlet_felvasarlas_kleptokracia_Vitezy_Tamas_Meszaros_Lorinc_Garancsi_Istvan_Orban_Viktor)

Ungarn: “Die größten Raubtiere nehmen alles, was ihnen gefällt” – Es wirkt wie ein Beutezug: Viktor Orbán und seiner Partei nahestehende Oligarchen übernehmen serienweise Firmen. Vieles weist darauf hin, dass Erpressung und Behördenschikane mitspielen. Süddeutsche Zeitung, 12.12.2021, <https://www.sueddeutsche.de/politik/ungarn-viktor-orban-oligarchen-1.5485229?reduced=true>

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Company of PM Orban's son-in-law buys 57% stake in Hungary's Granit Bank. Reuters, 30.12.2021, <https://www.reuters.com/markets/europe/company-pm-orbans-son-in-law-buys-57-stake-hungarys-granit-bank-2021-12-30/>

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<sup>23</sup> KEHOP Plusz, [https://www.palyazat.gov.hu/kornyezeti\\_es\\_energhatekonysagi\\_operativ\\_program\\_plusz#](https://www.palyazat.gov.hu/kornyezeti_es_energhatekonysagi_operativ_program_plusz#). My translation – A.L.

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<sup>30</sup> European Parliament resolution of 17 May 2017 on the situation in Hungary (2017/2656(RSP)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0216+0+DOC+XML+V0//EN>

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<sup>32</sup> Opinion of the Committee on Budgetary Control for the Committee on Civil Liberties, Justice and Home Affairs on the situation in Hungary (pursuant to the European Parliament resolution of 17 May 2017)

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<sup>33</sup> MISSION REPORT following the ad-hoc delegation to Budapest, Hungary 29 September – 1 October 2021. European Parliament, Committee on Civil Liberties, Justice and Home Affairs, 26.11.2021, [https://www.europarl.europa.eu/meetdocs/2014\\_2019/plmrep/COMMITTEES/LIBE/DV/2021/11-29/MissionreportHungary\\_EN.pdf](https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/LIBE/DV/2021/11-29/MissionreportHungary_EN.pdf)

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<sup>45</sup> Rengeteg pénzt küldött Brüsszel a kormánynak az új vita kiobbanása óta - Ez hogyan lehetséges és mi várható? (*Brussels has sent a lot of money to the government since the new dispute broke out - How is this possible and what can be expected?*). Portfolio, 21.08.2021, <https://www.portfolio.hu/unios-forrasok/20210821/rengeteg-penzt-kuldott-brusszel-a-kormanynak-az-uj-vita-kiobbanasa-ota-ez-hogyan-lehetseges-es-mi-varhato-497286>

<sup>46</sup> Hatalmas adag pénzt küldött Magyarországnak Brüsszel, felpörgette a pénzosztást a kormány (“*Brussels has sent a huge amount of money to Hungary, and the government has stepped up the distribution of money*”). Portfolio, 20.11.2021, <https://www.portfolio.hu/unios-forrasok/20211120/hatalmas-adag-penzt-kuldott-magyarorszag-nak-brusszel-felporgette-a-penzosztast-a-kormany-511792>